

# **EXHIBIT 41**



## LIMITED LIABILITY COMPANY BANKING RESOLUTION (For Deposit Accounts)

<b>Account Holder:</b>  PHOENIX CAPITAL MANAGEMENT LLC 100 GRIST MILL ROAD SIMSBURY, CT 06070	<b>Financial Institution:</b>  TD Bank, N.A. Drake Mill Mall, 714 Hopmeadow St  Simsbury, CT 06070
<b>Account No.</b> 4242774671	<b>State / Commonwealth:</b> CT

In consideration of the existing or proposed banking relationship between PHOENIX CAPITAL MANAGEMENT LLC, a Limited Liability Company (the "Company") and TD Bank, N.A., the persons signing below jointly and severally and on behalf of the Company do hereby certify that and agree as follows:

PHOENIX CAPITAL MANAGEMENT LLC is the complete and correct name of the Account Holder.

Managers, Members and Authorized Signers: We further certify that the following is a complete list of the names of all managers, members and authorized signers of the Company. We agree to notify the Financial Institution of any change in the Company, including the adding of new members and leaving of current members from the Company, before the change takes effect.

Title	Name	Signature
Chairman Managing Member	DANIEL E CARPENTER	
Secretary	AMANDA ROSSI	

Assumed Business Names: Excluding the name of the Company, the following is a complete list of all assumed business names under which the Company does business:

Assumed Business Name #1: \_\_\_\_\_

Assumed Business Name #2: \_\_\_\_\_

We further certify that at a meeting of the members of the Company (or by other duly authorized Company action in lieu of a meeting, duly called and held on 5/21/09, at which a quorum was present and voting, the following resolutions were adopted:

**Be It Resolved**, that TD Bank, N.A., at any one or more of its branches, be and it hereby is designated as the Financial Institution of and depository for the funds of this Company, which may be withdrawn on checks, drafts, advices of debit, notes or other orders for the payment of money;

**Be It Further Resolved**, that any one (1) of the Authorized signers ("Agents") listed above may enter into any such agreements and perform such other acts as they deem reasonably necessary in furtherance of the Company's Banking Relationship with the Financial Institution, and those agreements will bind the Company, and acting for and on behalf of the Company and as its act and deed be, and they hereby are, authorized and empowered;

**Execute Documents:** To execute and deliver to Financial institution the form of Limited Liability Company Banking Resolution and other account opening documents submitted by Financial Institution, confirming the nature and existence of Account Holder and evidencing the terms of the agreement between Financial Institution and Account Holder.

**Agent's Authority:** Any one of such Agents is authorized to endorse all checks, drafts, notes and other items payable to or owned by this Company for deposit with the Financial Institution, or for collection or discount by the Financial Institution; and to accept draft and other items payable at the Financial Institution. The Financial Institution is hereby directed to accept and pay without further inquiry any item drawn against any of the Company's accounts with the Financial Institution bearing the signature of any one of the Agents, as authorized above or otherwise, even though drawn or endorsed to the order of Any Agent signing or tendered by such Agent for cashing or in payment of the individual obligation of such Agent or for deposit to the Agent's personal account, and the Financial Institution shall not be required or be under any obligation to inquire as to the circumstances of the issue or use of any item signed in accordance with the resolutions contained herein, or the application or disposition of such item or the proceeds of the item.

**Further Acts:** The above-named Agents are authorized and empowered to execute such other agreements, including, but not limited to, special depository agreements and arrangements regarding the manner, conditions or purposes for which funds, checks or items of Account Holder may be deposited, collected or withdrawn and to perform such other acts as they deem reasonably necessary to carry out the provisions of this resolutions.

**Be It Further Resolved**, that the authority hereby conferred upon the above-named Agents shall be and remain in full force and effect until written notice of any amendment or revocation thereof shall have been delivered and received by the Financial Institution at each location where an account is maintained. Financial Institution shall be indemnified and held harmless by the Company from any loss suffered or any liability incurred by it in continuing to act in accordance with this resolution. Any such notice shall not affect any items in process at the time notice given.

**We Further Certify** that the authorized signers name above are duly elected, appointed or employed by or for the Company, as the case may be, and occupy the positions set opposite their respective names; that the foregoing resolutions now stand of record on the books of the Company; and that the resolutions are in full force and effect and have not been modified or revoked in any manner whatsoever.

We have each read all of the provisions of this Limited Liability Company Resolution, and we each jointly and severally and on behalf of the Company certify and agree to its terms.

This Agreement is dated: 05/20/2009

Account Holder:

PHOENIX CAPITAL MANAGEMENT LLC

By: \_\_\_\_\_

By:

*Daniel E. Langford*

By: \_\_\_\_\_

By:

*Andrea P.*

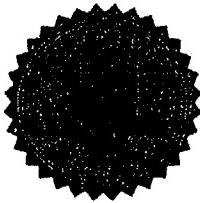
# Delaware

PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "PHOENIX CAPITAL MANAGEMENT GROUP, LLC", FILED IN THIS OFFICE ON THE THIRTIETH DAY OF DECEMBER, A.D. 2005, AT 1 O'CLOCK P.M.

4086984 8100  
051076651



Harriet Smith Windsor  
Harriet Smith Windsor, Secretary of State  
**AUTHENTICATION: 4417328**

**DATE: 01-03-06**

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 02:01 PM 12/30/2005  
FILED 01:00 PM 12/30/2005  
SRV 051076651 - 4086984 FILE

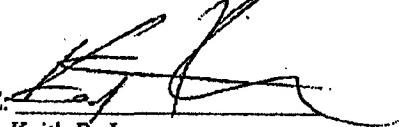
CERTIFICATE OF FORMATION  
OF  
LIMITED LIABILITY COMPANY

FIRST. The name of the limited liability company is PHOENIX CAPITAL MANAGEMENT GROUP, LLC.

SECOND. The address of its registered office in the State of Delaware is 2711 Centerville Road, Suite 400, Wilmington, Delaware, 19808. The name of its registered agent at such address is The Company Corporation.

IN WITNESS WHEREOF, the undersigned have executed this Certificate of Formation of PHOENIX CAPITAL MANAGEMENT GROUP, LLC this 30<sup>th</sup> day of December, 2005.

NAME:

  
Keith R. Jones  
Authorized Person

# **EXHIBIT 42**

**Direction** I  
**FAX**  
**Fee** 10.00  
**Intermd Bank**  
**IMAD** 20090917B1QGC04C005135  
**MID** 090917143301F200  
**Paymnt Method** FED  
**Msg Status** COMPLETE  
**Msg Type** 10  
**Msg Subtype** 00  
**OBI** PAYMENT FROM TRANEN CAPITAL ALT.INVESTMENT FUND RE - ALLEN TUCKERPOLICY  
 NUMBER 157 200 848  
**Office** 004  
**OMAD** 20090917A1B7001S00090809171433FT01  
**Originator** CALEDON TRUST COMPANY  
**ORG ADDR1** SUITE 3402  
**ORG ADDR2** 130 ADELAIDE ST W  
**ORG ADDR3** TORONTO ONM5H3P5  
**ORG ID** 000024082640  
**ORG ID Code** AC  
**Recv ABA** 011103093  
**Recv Name** TD BANKNORTH CT  
**REF IMAD**  
**Reference** 7095600260JS  
**Sender ABA** 021000021  
**Sender Name** JPMORGAN CHASE  
**Paymnt Source** FLS  
**Time** 14:33:01  
**UserID**  
**Value Date** 9/17/2009 12:00:00AM

<b>MIF_AMOUNT</b>	510,000.00
<b>Account No</b>	4242774712
<b>Amount</b>	510,000.00
<b>BBI</b>	
<b>Bene Bank</b>	
<b>Beneficiary</b>	Grist Mill Trust
<b>BNF ADDR1</b>	100 Grist Mill Road
<b>BNF ADDR2</b>	
<b>BNF ADDR3</b>	SimsburyCT
<b>BNF ID</b>	904028488
<b>Branch ID</b>	004BR001
<b>Country Code</b>	US
<b>Currency</b>	USD
<b>Wire Date</b>	12/3/2009 12:00:00AM
<b>Direction</b>	O
<b>FAX</b>	
<b>Fee</b>	15.00
<b>Intermd Bank</b>	
<b>IMAD</b>	20091203C1B76E1C002387
<b>MID</b>	091203142312XI03
<b>Paymnt Method</b>	FED
<b>Msg Status</b>	COMPLETE
<b>Msg Type</b>	10
<b>Msg Subtype</b>	00
<b>OBI</b>	
<b>Office</b>	004
<b>OMAD</b>	20091203B1QGC01R04116812031442FT01
<b>Originator</b>	GRIST MILL CAPITAL LLC

<b>ORG ADDR1</b>	100 GRIST MILL ROAD
<b>ORG ADDR2</b>	SIMSBURY, CT 06070-
<b>ORG ADDR3</b>	
<b>ORG ID</b>	4242774712
<b>ORG ID Code</b>	AC
<b>Recv ABA</b>	021000021
<b>Recv Name</b>	JPMORGAN CHASE BAN
<b>REF IMAD</b>	
<b>Reference</b>	091203142312XI03
<b>Sender ABA</b>	011103093
<b>Sender Name</b>	TD BANK
<b>Paymt Source</b>	MAX
<b>Time</b>	14:40:06
<b>UserID</b>	MARKM
<b>Value Date</b>	12/3/2009 12:00:00AM

<b>MIF_AMOUNT</b>	29,359.90
<b>Account No</b>	4242774712
<b>Amount</b>	29,359.90
<b>BBI</b>	
<b>Bene Bank</b>	
<b>Beneficiary</b>	Abbott And Abbott Atty Trust Acct
<b>BNF ADDR1</b>	1905 Diamond ST. Ste B
<b>BNF ADDR2</b>	
<b>BNF ADDR3</b>	San MarcusCA
<b>BNF ID</b>	687052712
<b>Branch ID</b>	001
<b>Country Code</b>	US
<b>Currency</b>	USD
<b>Wire Date</b>	2/10/2010 12:00:00AM
<b>Direction</b>	O
<b>FAX</b>	
<b>Fee</b>	15.00
<b>Intermd Bank</b>	
<b>IMAD</b>	20100210C1B76E1C001790
<b>MID</b>	100210135639XI02
<b>Paymt Method</b>	FED
<b>Msg Status</b>	COMPLETE
<b>Msg Type</b>	10
<b>Msg Subtype</b>	00
<b>OBI</b>	Anico Policy U0581409
<b>Office</b>	004
<b>OMAD</b>	20100210L2B7721C00122202101402FT01
<b>Originator</b>	GRIST MILL CAPITAL LLC
<b>ORG ADDR1</b>	100 GRIST MILL ROAD
<b>ORG ADDR2</b>	SIMSBURY, CT 06070-
<b>ORG ADDR3</b>	
<b>ORG ID</b>	4242774712
<b>ORG ID Code</b>	AC
<b>Recv ABA</b>	121100782
<b>Recv Name</b>	BANK OF THE WEST
<b>REF IMAD</b>	
<b>Reference</b>	100210135639XI02
<b>Sender ABA</b>	
<b>Sender Name</b>	TD BANK
<b>Paymt Source</b>	MAX
<b>Time</b>	14:02:35
<b>UserID</b>	RUTH
<b>Value Date</b>	2/10/2010 12:00:00AM

# **EXHIBIT 43**

**MIF\_AMOUNT** 42,373.30  
**Account No** 4242774712  
**Amount** 42,373.30  
**BBI**  
**Bene Bank**  
**Beneficiary** North American Life And Health  
**BNF ADDR1** 420 Montgomery Street  
**BNF ADDR2**  
**BNF ADDR3** San FranciscoCA  
**BNF ID** 0194944013  
**Branch ID** 004BR001  
**Country Code** US  
**Currency** USD  
**Wire Date** 12/16/2009 12:00:00AM  
**Direction** O  
**FAX**  
**Fee** 15.00  
**Intermd Bank**  
**IMAD** 20091216C1B76E1C003381  
**MID** 091216162642XI06  
**Paymt Method** FED  
**Msg Status** COMPLETE  
**Msg Type** 10  
**Msg Subtype** 00  
**OBI** Paul D. Carter Policy #LB00969380 SS# 250-26-4144  
**Office** 004  
**OMAD** 20091216I1B7031R02753412161634FT01  
**Originator** GRIST MILL CAPITAL LLC  
**ORG ADDR1** 100 GRIST MILL ROAD  
**ORG ADDR2** SIMSBURY, CT 06070-  
**ORG ADDR3**  
**ORG ID** 4242774712  
**ORG ID Code** AC  
**Recv ABA** 121000248  
**Recv Name** WELLS FARGO NA  
**REF IMAD**  
**Reference** 091216162642XI06  
**Sender ABA**  
**Sender Name** TD BANK  
**Paymt Source** MAX  
**Time** 16:34:12  
**UserID** LAURAYIP  
**12/16/2009 12:00:00AM**

<b>MIF_AMOUNT</b>	178,125.00
<b>Account No</b>	4242774712
<b>Amount</b>	178,125.00
<b>BBI</b>	
<b>Bene Bank</b>	Grist Mill Trust
<b>BNF ADDR1</b>	100 Grist Mill Road
<b>BNF ADDR2</b>	
<b>BNF ADDR3</b>	SimsburyCT
<b>BNF ID</b>	904952088
<b>Branch ID</b>	004BR001
<b>Country Code</b>	US
<b>Currency</b>	USD
<b>Wire Date</b>	12/3/2009 12:00:00AM

<b>Direction</b>	O
<b>FAX</b>	
<b>Fee</b>	15.00
<b>Intermd Bank</b>	
<b>IMAD</b>	20091203C1B76E1C001531
<b>MID</b>	091203122908XI01
<b>Paymnt Method</b>	FED
<b>Msg Status</b>	COMPLETE
<b>Msg Type</b>	10
<b>Msg Subtype</b>	00
<b>OBI</b>	
<b>Office</b>	004
<b>OMAD</b>	20091203B1QGC01R02819612031229FT01
<b>Originator</b>	GRIST MILL CAPITAL LLC
<b>ORG ADDR1</b>	100 GRIST MILL ROAD
<b>ORG ADDR2</b>	SIMSBURY, CT 06070-
<b>ORG ADDR3</b>	
<b>ORG ID</b>	4242774712
<b>ORG ID Code</b>	AC
<b>Recv ABA</b>	021000021
<b>Recv Name</b>	JPMORGAN CHASE BAN
<b>REF IMAD</b>	
<b>Reference</b>	091203122908XI01
<b>Sender ABA</b>	011103093
<b>Sender Name</b>	TD BANK
<b>Paymnt Source</b>	MAX
<b>Time</b>	12:29:08
<b>UserID</b>	
<b>Value Date</b>	12/3/2009 12:00:00AM

<b>MIF_AMOUNT</b>	44,150.00
<b>Account No</b>	4242774712
<b>Amount</b>	44,150.00
<b>BBI</b>	
<b>Bene Bank</b>	
<b>Beneficiary</b>	Financial Processing Unit
<b>BNF ADDR1</b>	620 Liberty Avenue
<b>BNF ADDR2</b>	
<b>BNF ADDR3</b>	PittsburghPA
<b>BNF ID</b>	1005255672
<b>Branch ID</b>	001
<b>Country Code</b>	US
<b>Currency</b>	USD
<b>Wire Date</b>	1/6/2010 12:00:00AM
<b>Direction</b>	O
<b>FAX</b>	
<b>Fee</b>	15.00
<b>Intermd Bank</b>	
<b>IMAD</b>	20100106C1B76E1C000841
<b>MID</b>	100106113006XI02
<b>Paymnt Method</b>	FED
<b>Msg Status</b>	COMPLETE
<b>Msg Type</b>	10
<b>Msg Subtype</b>	00
<b>OBI</b>	Avon Ins Trust Acct. 20420023416042Rella Waldman Anico Policy #U0583990
<b>Office</b>	004
<b>OMAD</b>	20100106D3B74V9C00206201061130FT01
<b>Originator</b>	GRIST MILL CAPITAL LLC
<b>ORG ADDR1</b>	100 GRIST MILL ROAD

# **EXHIBIT 44**

*Suite 1900  
250 Park Avenue  
New York, New York 10177  
Main: 212 907-9700  
Fax: 212 907-9800  
www.sgrlaw.com*

**SMITH, GAMBRELL & RUSSELL LLP**  
*Attorneys at Law*

*Joseph M. Pastore III  
Direct Tel: 212-907-9730  
Direct Fax: 212-907-9830  
CT Tel: 203-564-1485  
CT Fax: 203-564-1402  
jpastore@sgrlaw.com*

September 21, 2012

**VIA EMAIL, FAX & FEDERAL EXPRESS**

**bmorgan@yesbank.com  
Fax: (856) 489-7016**

Barbara J. Morgan  
Custodian of Records  
Legal Department  
TD Bank, N.A.  
1701 Route 70 East  
Cherry Hill, NJ 08034

**Re: Universitas Education, LLC v. Nova Group, Inc., as Sponsor and Named Fiduciary  
of the Charter Oak Trust Welfare Benefit Plan  
Case No.: 12-mc-00102-AWT**

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Dear Ms. Morgan:

We represent Nova Group, Inc. and The Charter Oak Trust Welfare Benefit Plan, (collectively, the "Customer") in the above-entitled Connecticut Action. We write to you to articulate the Customer's position on Connecticut Law. We understand that a subpoena was served upon TD Bank, N.A. ("TD Bank") by Bryan Reyhani, Esq. of the law firm of Reyhani Nemirovsky LLP on behalf of Universitas Education, LLC ("Universitas") in a related New York Action. We understand that the subpoena seeks various Customer's "financial records" (as that term is defined in Conn. Gen. Stat. § 36a-41(2)), many of whom are not involved in this case.

Please be advised that because the Customer is located in Connecticut and TD Bank has numerous Bank branches in Connecticut, TD Bank is required to comply with Connecticut law regarding the disclosure of the Customer's financial records. Thus, we write to tell you that under Connecticut Law, the Customer objects to TD Bank's further compliance with the subpoena or the disclosure of any of its financial records to Mr. Reyhani, his law firm, or



Barbara J. Morgan  
September 21, 2012  
Page 2

any other person or entity.

Disclosure of the Customer's financial records to anyone other than the Customer or the Customer's duly authorized agent is strictly prohibited by Conn. Gen. Stat. § 36a-42 because the subpoena is not a "lawful subpoena" as required by the statute. Mr. Reyhani failed to serve a certified copy of the subpoena on the Customer at least ten (10) days prior to the date on which the records are to be disclosed. See Conn. Gen. Stat. § 36a-43(a). Thus, it is not lawful under Connecticut Law.

You would also be well advised to take notice of Conn. Gen. Stat. § 36a-45(a), which provides that: "Any officer or employee of a financial institution who knowingly and willfully furnishes financial records in violation of sections 36a-41 to 36a-44, inclusive, shall be guilty of a class C misdemeanor." Id. (emphasis added). For your information, a class C misdemeanor in Connecticut carries with it a fine of up to \$500 and imprisonment of up to three months. Furthermore, because Mr. Reyhani knowingly and willfully induced or attempted to induce TD Bank to disclose the Customer's financial records in violation of Connecticut law, he also faces potential criminal liability under Conn. Gen. Stat. § 36a-45(b).

Aside from potential criminal penalties, TD Bank faces substantial civil liability if it discloses the Customer's financial records in violation of Connecticut law. This letter shall serve notice that, absent a final order by a Connecticut court authorizing disclosure, if TD Bank discloses the Customer's financial records to anyone other than the Customer, the customer will seek to hold TD Bank legally responsible. Because the subpoena is facially invalid, TD Bank cannot rely on the "safe harbor" provided by Conn. Gen. Stat. § 36a-43(d).

In light of the foregoing, you and TD Bank would be well advised to govern yourselves accordingly. If you have any questions about this matter, please do not hesitate to contact me

Very truly yours,

Joseph M. Pastore III

JMP/kj

cc: Bryan Reyhani, Esq. (via email only)  
Jack E. Robinson, Esq. (via email only)



GRIST MILL CAPITAL LLC

Via FAX

Fax (856) 489-7016

Barbara J. Morgan  
Custodian of Records  
Legal Department  
TD Bank, N.A.  
1701 Route 70 East  
Cherry Hill, NJ 08034

Re: Subpoena for Customer Records in re Universitas, LLC v. Nova Group, Inc.

Dear Ms. Morgan:

This letter is to inform you that you are not to release any of my personal information, or that of Grist Mill Capital, LLC ("GMT"). Neither I nor GMC are parties to this litigation and it is outrageous that Universitas is asking for personal information for bank accounts not dealing with the Charter Oak Trust or Nova Group, Inc. in the supplemental subpoena served upon TD Bank, N.A. GMC and I object to TD Bank's further compliance with the subpoena or the disclosure of any of our bank records to any other person or entity.

You would be well advised to take notice of Conn. Gen. Stat. § 36a-45(a), which provides that, "Any officer or employee of a financial institution who knowingly and willfully furnishes financial records in violation of sections 36a-41 to 36a-44, inclusive, shall be guilty of a class C misdemeanor." *Id.* (emphasis added). For your information, a class C misdemeanor in Connecticut carries with it fines and imprisonment of up to three months. Aside from potential criminal penalties, TD Bank faces substantial civil liability if it discloses our financial records in violation of Connecticut law. This letter shall serve notice that, absent a final order by a Connecticut court authorizing disclosure, if TD bank discloses our financial records to anyone other than us, TD Bank shall be held legally responsible under applicable federal and state law and we will sue TD Bank for upwards of \$50 million in actual damages plus treble punitive damages. Because the subpoena is facially invalid, TD Bank cannot rely on the "safe harbor" provided by Conn. Gen. Stat. § 36a-43(d).

In light of the foregoing, you and TD Bank would be well advised to govern yourselves accordingly.

With best regards,

A handwritten signature in black ink, appearing to read "Daniel E. Carpenter".  
Daniel E. Carpenter

# **EXHIBIT 45**

## LOAN AGREEMENT AND PROMISSORY NOTE

THIS LOAN AGREEMENT AND PROMISSORY NOTE, is made this 11th day of August, 2006, by and among Grist Mill Capital, LLC of 100 Grist Mill Road (hereinafter, known as "BORROWER") and The Grist Mill Trust, a Trust organized under the laws of the State of Connecticut (hereinafter known as "LENDER"). BORROWER and LENDER shall collectively be known herein as "the Parties". In determining the rights and duties of the Parties under this Loan Agreement, the entire document must be read as a whole.

### PROMISSORY NOTE

FOR A LOAN OF PREMIUMS RECEIVED, for the policy on the life of [REDACTED] (Phoenix Policy #REDA ) BORROWER promises to pay to the order of LENDER, the sum of the total dollars borrowed to pay premiums on the policy as listed in Schedule "A" on demand, but no later than August 14, 2009(hereinafter known as "LOAN"). Any amounts unpaid shall accrue at 1% interest per month or 12% per annum.

### ADDITIONAL LOAN TERMS

The BORROWER and LENDER, hereby further set forth their rights and obligations to one another under this Loan Agreement and Promissory Note and agree to be legally bound as follows:

- A. **LOAN REPAYMENT TERMS.** BORROWER shall pay back the entire amount of the LOAN to LENDER no later than August 14, 2009 with interest computed at 1% per month or 12% per annum.
- B. **DEMAND BY LENDER.** This is a total premium dollars invested on "demand" Loan Agreement and Promissory Note under which BORROWER in the event of default is required to repay in full the entire outstanding Loan Amount within 15 days of receiving a written demand from LENDER for full repayment of the Loan Amount. Delivery of written notice by LENDER to BORROWER via U.S. Postal Service Certified Mail shall constitute prima facie evidence of delivery. For mailing of said notice, LENDER shall use BORROWER'S address as stated below.
- C. **METHOD OF LOAN PAYMENT.** The BORROWER shall make all payments called for under this Loan Agreement by hand delivery or by sending a check, wire, or other negotiable instrument made payable to LENDER at the following address:

Grist Mill Trust  
C/O Benefit Plan Advisors, LLC  
Grist Mill Plaza  
100 Grist Mill Road  
Simsbury, CT 06070  
860-408-7000

IF LENDER gives written notice to BORROWER that a different address shall be used for making payments under this Loan Agreement, BORROWER shall use the new address so given by LENDER.

**D. DEFAULT.** The occurrence of any of the following events shall constitute a Default by the BORROWER of the terms of this Loan Agreement and Promissory Note:

1. BORROWER's failure to pay any amount due as principal or interest on the date required under this Loan Agreement.
2. BORROWER seeks an order of relief under the Federal Bankruptcy laws.
3. A federal or state tax lien is filed against the assets of BORROWER.
4. A money judgment is entered by any court against BORROWER.

**E. ADDITIONAL PROVISIONS REGARDING DEFAULT:**

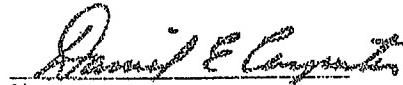
1. **Commercial Loan.** BORROWER fully recognizes that this is a Commercial Loan given in the course of a business venture and therefore BORROWER waives any and all rights to demand, presentment for payment, notice of non-payment, notice of dishonor, protest, and notice of non-payment of this Promissory Note.
  2. **Acceleration.** If the BORROWER fails to cure any default on or before the expiration of the fifteen (15) day cure period that starts on the date BORROWER receives written notice from LENDER that an event of default has occurred under this Loan Agreement, the entire unpaid principal, accrued interest, and penalties under this Loan Agreement shall accelerate and become due and payable immediately.
  3. **Indemnification of Attorneys Fees and out-of-pocket costs.** A default by BORROWER which is not cured within 15 days after receiving a written notice of default from LENDER constitutes a material breach of this Agreement by BORROWER, and will entitle the Lender to be indemnified by the BORROWER for any Attorneys' Fees, court costs, and out-of-pocket costs in the collection of the dept owed to the LENDER.
- F. PLEDGE AND COLLATERAL.** As security for the repayment in full of this loan, and in addition to any and all other rights and remedies under the law, BORROWER pledges to LENDER all shares of any business interest owned by the BORROWER as well as the assets of any real estate owned by BORROWER. BORROWER further agrees to protect such assets as collateral and help LENDER collect on those assets and shares in the event of BORROWER's default as listed above.
- G. INTEGRATION.** This Agreement, including any attachments mentioned in the body as incorporated by reference, sets forth the entire agreement between the Parties with regard to the subject matter hereof. All prior agreements, representations and warranties, express or implied, oral or written, with respect to the subject matter hereof, are hereby superseded by this agreement. This is an integrated Agreement.

- H. SEVERABILITY. In the event any provision of this Agreement is deemed to be void, invalid, or unenforceable, that provision shall be severed from the remainder of this Agreement so as not to cause the invalidity or unenforceability of the remainder of this Agreement. All remaining provisions of this Agreement shall then continue in full force and effect. If any provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope and breadth permitted by law.
- I. MODIFICATION. Except as otherwise provided in this document, this Agreement may be modified, superseded, or voided only upon the written and signed agreement of the Parties. Further, the physical destruction or loss of this document shall not be construed as a modification or termination of the Agreement contained herein.
- J. EXCLUSIVE JURISDICTION FOR SUIT IN CASE OF BREACH. The Parties, by entering into this Agreement, submit to jurisdiction in Hartford, Connecticut for adjudication of any disputes and/or claims between the parties under this Agreement. Furthermore, the parties hereby agree that the courts of Hartford, Connecticut shall have exclusive jurisdiction over any disputes between the parties relative to this Agreement, whether said disputes sound in contract, tort, or other areas of the law.
- K. STATE LAW. This Agreement shall be interpreted under, and governed by, the laws of the State of Connecticut.

IN WITNESS WHEREOF and acknowledging acceptance and agreement of the foregoing, BORROWER and LENDER affix their signatures hereto.

BORROWER:

Grist Mill Capital, LLC

  
Signature

By: Daniel E. Carpenter

Title: Chairman of the Managing Member

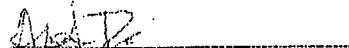
Dated: AUGUST 11, 2006

ADDRESS:

100 Grist Mill Road

Simsbury, CT 06070

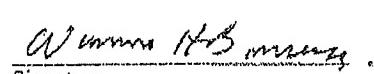
WITNESS:



Amanda Rossi  
Name

LENDER:

Grist Mill Trust

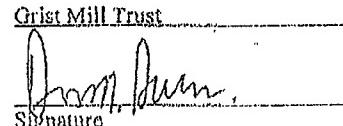
  
Signature

By: Wayne H. Bursey

Title: Trustee

Dated: 8-11, 2006

ACKNOWLEDGMENT OF  
PAYMENT IN FULL AND RECEIPT

Grist Mill Trust  
  
Signature

Donna Dawson

5/12/09  
Date

## LOAN AGREEMENT AND PROMISSORY NOTE

THIS LOAN AGREEMENT AND PROMISSORY NOTE, is made this 1st day of October, 2007, by and among Grist Mill Capital, LLC of 100 Grist Mill Road (hereinafter, known as "BORROWER") and The Grist Mill Trust, a Trust organized under the laws of the State of Connecticut (hereinafter known as "LENDER"). BORROWER and LENDER shall collectively be known herein as "the Parties". In determining the rights and duties of the Parties under this Loan Agreement, the entire document must be read as a whole.

### PROMISSORY NOTE

FOR A LOAN OF \$2,500,000 RECEIVED, BORROWER promises to pay to the order of LENDER, the sum of \$2,500,000 dollars on demand, but no later than October 4, 2010 (hereinafter known as "LOAN"). Any amounts unpaid shall accrue at 1% interest per month or 8% per annum.

### ADDITIONAL LOAN TERMS

The BORROWER and LENDER, hereby further set forth their rights and obligations to one another under this Loan Agreement and Promissory Note and agree to be legally bound as follows:

- A. LOAN REPAYMENT TERMS. BORROWER shall pay back the entire amount of the LOAN to LENDER no later than October 4, 2010 with interest computed at 1% per month or 8% per annum.
- B. DEMAND BY LENDER. This is a "demand" Loan Agreement and Promissory Note under which BORROWER in the event of default is required to repay in full the entire outstanding Loan Amount within 15 days of receiving a written demand from LENDER for full repayment of the Loan Amount. Delivery of written notice by LENDER to BORROWER via U.S. Postal Service Certified Mail shall constitute prima facie evidence of delivery. For mailing of said notice, LENDER shall use BORROWER'S address as stated below.
- C. METHOD OF LOAN PAYMENT. The BORROWER shall make all payments called for under this Loan Agreement by hand delivery or by sending a check, wire, or other negotiable instrument made payable to LENDER at the following address:

Grist Mill Trust  
C/O Benefit Plan Advisors, LLC  
Grist Mill Plaza  
100 Grist Mill Road  
Simsbury, CT 06070  
860-408-7000

If LENDER gives written notice to BORROWER that a different address shall be used for making payments under this Loan Agreement, BORROWER shall use the new address so given by LENDER.

**D. DEFAULT.** The occurrence of any of the following events shall constitute a Default by the BORROWER of the terms of this Loan Agreement and Promissory Note:

1. BORROWER's failure to pay any amount due as principal or interest on the date required under this Loan Agreement.
2. BORROWER seeks an order of relief under the Federal Bankruptcy laws.
3. A federal or state tax lien is filed against the assets of BORROWER.
4. A money judgment is entered by any court against BORROWER.

**E. ADDITIONAL PROVISIONS REGARDING DEFAULT:**

1. **Commercial Loan.** BORROWER fully recognizes that this is a Commercial Loan given in the course of a business venture and therefore BORROWER waives any and all rights to demand, presentment for payment, notice of non-payment, notice of dishonor, protest, and notice of non-payment of this Promissory Note.
2. **Acceleration.** If the BORROWER fails to cure any default on or before the expiration of the fifteen (15) day cure period that starts on the date BORROWER receives written notice from LENDER that an event of default has occurred under this Loan Agreement, the entire unpaid principal, accrued interest, and penalties under this Loan Agreement shall accelerate and become due and payable immediately.
3. **Indemnification of Attorneys Fees and out-of-pocket costs.** A default by BORROWER which is not cured within 15 days after receiving a written notice of default from LENDER constitutes a material breach of this Agreement by BORROWER, and will entitle the Lender to be indemnified by the BORROWER for any Attorneys' Fees, court costs, and out-of-pocket costs in the collection of the debt owed to the LENDER.

**F. PLEDGE AND COLLATERAL.** As security for the repayment in full of this loan, and in addition to any and all other rights and remedies under the law, BORROWER pledges to LENDER all shares of any business interest owned by the BORROWER as well as the assets of any real estate owned by BORROWER. BORROWER further agrees to protect such assets as collateral and help LENDER collect on those assets and shares in the event of BORROWER's default as listed above.

**G. INTEGRATION.** This Agreement, including any attachments mentioned in the body as incorporated by reference, sets forth the entire agreement between the Parties with regard to the subject matter hereof. All prior agreements, representations and warranties, express or implied, oral or written, with respect to the subject matter hereof, are hereby superseded by this agreement. This is an integrated Agreement.

- H. SEVERABILITY. In the event any provision of this Agreement is deemed to be void, invalid, or unenforceable, that provision shall be severed from the remainder of this Agreement so as not to cause the invalidity or unenforceability of the remainder of this Agreement. All remaining provisions of this Agreement shall then continue in full force and effect. If any provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope and breadth permitted by law.
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- J. EXCLUSIVE JURISDICTION FOR SUIT IN CASE OF BREACH. The Parties, by entering into this Agreement, submit to jurisdiction in Hartford, Connecticut for adjudication of any disputes and/or claims between the parties under this Agreement. Furthermore, the parties hereby agree that the courts of Hartford, Connecticut shall have exclusive jurisdiction over any disputes between the parties relative to this Agreement, whether said disputes sound in contract, tort, or other areas of the law.
- K. STATE LAW. This Agreement shall be interpreted under, and governed by, the laws of the State of Connecticut.

IN WITNESS WHEREOF and acknowledging acceptance and agreement of the foregoing, BORROWER and LENDER affix their signatures hereto.

BORROWER:

Grist Mill Capital, L.L.C.

Signature

By: Daniel E. Carpenter

Title: Chairman of the Managing Member

Dated: 10/05/07, 2007

ADDRESS:

100 Grist Mill Road

Simsbury, CT 06070

WITNESS:

Amanda Rossi

Name

LENDER:

Grist Mill Trust

Signature

By: Wayne H. Bursey

Title: Trustee

Dated: 10 - 1, 2007

ACKNOWLEDGMENT OF  
PAYMENT IN FULL AND RECEIPT

Grist Mill Trust

Donna Dawson

Signature

Donna Dawson

Date

# **EXHIBIT 46**

100 Grist Mill Road  
Simsbury, CT 06070

**GRIST MILL TRUST**

# Memo

**To:** Grist Mill Capital  
**Cc:** Daniel E. Carpenter & Amanda Rossi  
**From:** Grist Mill Trust  
**Date:** 11/30/2009  
**Re:** Grist Mill Capital requested loan on behalf of **REDACTED** from GMT Trust

---

The Pay-off Amount for the above loan as of November 30, 2009 is \$510,000.00

Please see breakdown below of Principal:

	Principal	Interest	Total	Balance Due	Balance
Advance on July 23, 2009	\$500,000.00	\$10,000	\$510,000.00	\$510,000.00	\$0.00

On July 23, 2009

There was a request to loan Grist Mill Capital \$500,000 on behalf of **REDACTED**. The loan is calculated from July 23, 2009 to November 30, 2009 at 6% percent total owed \$510,000.00. The loan was paid off 12/03/2009

100 Grist Mill Road  
Simsbury, CT 06070

**GRIST MILL TRUST**

# Memo

**To:** Grist Mill Capital  
**Cc:** Daniel E. Carpenter & Amanda Rossi  
**From:** Grist Mill Trust  
**Date:** 11/30/2009  
**Re:** Grist Mill Capital requested Policy payment for [REDACTED]  
from the SADI Plan & Trust

---

The Pay-off Amount for the above loan as of November 30, 2009 is \$178,125.00

Please see breakdown below of Principal:

	Principal	Interest	Total	Balance Due	Balance
Advance on February 13, 2008	\$178,125.00	\$0.00	\$178,125.00	\$178,125.00	\$0.00

On February 13, 2008

There was a request to pay \$178,125.00 on [REDACTED] policy# [REDACTED]. The Loan is from February 13, 2008 thru November 30, 2009. Paid off December 3, 2009.

# **EXHIBIT 47**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
CASE NO. 11-1590-LTS-HBP

UNIVERSITAS EDUCATION, LLC

Plaintiff,

VS.

NOVA GROUP, INC., as trustee,  
sponsor and fiduciary of the  
CHARTER OAK TRUST WELFARE  
BENEFIT PLAN,

Defendant.

April 17, 2013

10:00 a.m.

DEPOSITION OF DANIEL E. CARPENTER

REPORTED BY:

MARY G. VAN DINA, Certified Court Reporter,  
Certified LiveNote Reporter.

1

2       April 17, 2013

3       10:00 a.m.

4

5                     Deposition of DANIEL E. CARPENTER,  
6       taken by Plaintiffs, pursuant to subpoena, at the  
7       offices of LOEB & LOEB, LLP, 345 Park Avenue, New  
8       York, New York, before MARY G. VAN DINA, a  
9       Certified Shorthand Reporter and Notary Public  
10      within and for the State of New York.

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2 A P P E A R A N C E S:

3

4 LOEB & LOEB, LLP

5 345 Park Avenue

6 4 New York, New York 10154

7 BY: PAULA KAE COLBATH, ESQ.

8 MICHAEL BARNETT, ESQ.

9 Attorneys for the Plaintiff

10

11 ANTHONY J. SIANO, ESQUIRE, PLLC

12 333 Westchester Avenue, Suite 302

13 White Plains, New York 10604

14 BY: ANTHONY SIANO, ESQ.

15 Attorneys for Daniel E. Carpenter

16

17 HALLORAN & SAGE, LLP

18 315 Post Road West

19 Westport, Connecticut 06880

20 BY: DAN E. LABELLE, ESQ.

21 Attorneys for Molly Carpenter

22

23

24

25

1

2

INDEX

3

4 WITNESS

PAGE

5

6 DANIEL E. CARPENTER

7 BY MS. COLBATH

5

8

9 EXHIBITS

10

11 NUMBER

DESCRIPTION

PAGE

12

13 Moonstone 1 Order to Show Cause with  
14 Temporary Restraining 9  
15 Order and Application for  
16 Turnover of Insurance  
17 Proceeds and Imposition  
18 of Constructive Trust

19 Moonstone 2 Document, Bates Nos. TD 18  
20 Universitas 0998 through  
21 1002

22 Moonstone 3 Document bearing Bates 63  
23 stamp number  
24 TD-Universitas 0524

25 Moonstone 4 UCC Financing Statement 66

1

2      Moonstone 5    Open End Mortgage Deed        114  
3                          and Security Agreement

4

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1 Daniel Carpenter 4/17/13

2 D A N I E L E . C A R P E N T E R , 18 Pondside

3 Lane, West Simsbury, Connecticut 06092, having

4 been duly sworn by the Notary Public, testified

5 as follows:

6 EXAMINATION BY MS. COLBATH:

7 Q. Good morning, Mr. Carpenter. As you  
8 know, my name is Paula Colbath, and I'm a lawyer  
9 here at Loeb & Loeb. We represent Universitas  
10 Education, LLC in this proceeding.

11 You've been deposed before, sir.

12 Correct?

13 A. Yes, ma'am.

14 Q. And you understand that your answers  
15 today need to be audible so the court reporter  
16 can take down your answers? She doesn't -- it's  
17 difficult for her to take down nods.

18 A. Yes, ma'am.

19 Q. If you need a break today, please let  
20 me know. We'll take a break.

21 Is that agreeable?

22 A. Yes.

23 Q. And, sir, if I ask you a question  
24 today that you don't understand, please let me  
25 know.

1                    Daniel Carpenter 4/17/13

2                Q.    Are you familiar with more than one  
3        entity that has Moonstone in the name?

4                A.    No.

5                Q.    What is your relationship to Moonstone  
6        Partners, LLC?

7                A.    I am the chairman of Caroline  
8        Financial Group, Inc., which is the managing  
9        member and tax matters partner of Moonstone  
10      Partners, LLC.

11              Q.    Is Caroline Financial Group, Inc. a  
12        member of Moonstone?

13              A.    Yes.

14              Q.    Are there any other members of  
15        Moonstone currently?

16              A.    Yes.

17              Q.    Whom are the other members?

18              A.    Molly Carpenter.

19              Q.    At any point prior to today, have  
20        there been any other members of Moonstone?

21              A.    No.

22              Q.    Is there -- strike that.

23                    Does Moonstone have any understanding  
24        currently with any individuals or entities to  
25        make them members?

1                   Daniel Carpenter 4/17/13

2   it to.

3                   Q. To whom have you rented the property?

4                   A. A number of employees of USB Group, as  
5   well as Benistar.

6                   Q. Why was an LLC formed to take  
7   ownership of the property?

8                   A. All of -- anything that I invested in  
9   is either held in an LLC or it's held in a trust,  
10   you know, for either estate planning purposes or  
11   protection, you know, asset protection, you know,  
12   type purposes, so that if something happens on  
13   one property, people can only sue that property  
14   and they cannot sue other properties that are  
15   owned by different trusts or different LLCs.

16                  Q. Is part of your motivation also to  
17   avoid being sued personally?

18                  A. I've been constantly sued since about  
19   January 6th of 2001, so I've been under a  
20   constant siege of lawsuits since early January of  
21   2001.

22                  MR. SIANO: May I have a moment,  
23   please?

24                  MS. COLEBATH: Sure.

25                  (Off-the-record discussion.)

1                   Daniel Carpenter 4/17/13

2       BY MS. COLBATH:

3                   Q.     What is the significance, if any, to  
4     the January 26, 2001 date that you referenced in  
5     your last answer?

6                   A.     The company that I work for invested  
7     money for Section 1031 tax-free exchanges, and I  
8     lost a little over \$8 million in the great stock  
9     market fall of December of 2000, and shortly  
10    thereafter, in January of 2001, there were a  
11    number of lawsuits that started against the  
12    company and me personally and that litigation is  
13    still going on today in Boston.

14                  Q.     Is that company you're referring to  
15    Benistar Property Exchange?

16                  A.     It's now called Boston Property  
17    Exchange, but at that time it was Benistar  
18    Property Exchange, but it's now Boston Property  
19    Exchange, but at the time it was Benistar  
20    Property Exchange Trust Company, but the name has  
21    been changed to Boston Property Exchange.

22                  Q.     Who were the shareholders of Caroline  
23    Financial Group, Inc.?

24                  A.     I don't know.

25                  Q.     Who would know?

1                    Daniel Carpenter 4/17/13

2                 A. If I don't know, I don't believe  
3                 there's anybody who would know.

4                 Q. Is Caroline Financial Group, Inc. a  
5                 company that's currently in good standing in a  
6                 jurisdiction?

7                 A. Yes, ma'am.

8                 Q. How do you know that?

9                 A. Because every year, we follow up with  
10          the state of Delaware.

11                 Most of the entities that I'm involved  
12          with are incorporated in Delaware and we  
13          routinely just -- you know, every March, we just  
14          make sure that we're current with the franchise  
15          tax and the annual reporting, so that I just  
16          happen to know that Caroline Financial Group is  
17          in good standing.

18                 Q. Who is the "we" that you referred to  
19          in your last answer that makes sure that Caroline  
20          Financial Group is current?

21                 A. I use the editorial "we" and the  
22          empirical "we" a lot, but the person who follows  
23          up to make sure that the company is in good  
24          standing is Amanda Rossi.

25                 Q. Who are the officers and directors

1                   Daniel Carpenter 4/17/13

2   currently of Caroline Financial Group, Inc.?

3                   A. It's just myself as chairman and  
4   secretary.

5                   Q. Do you recall who -- putting aside who  
6   the current shareholders of Caroline Financial  
7   Group, Inc., do you know who any -- any  
8   shareholders were at any point in time?

9                   A. No.

10                  Q. Who formed Caroline Financial Group,  
11   Inc.?

12                  A. I did.

13                  Q. When was it formed?

14                  A. I think in 1995.

15                  Q. What's the business of Caroline  
16   Financial Group, Inc.?

17                  A. It acts as the managing member and the  
18   tax matters partner of a number of different  
19   entities.

20                  Q. Can you identify any of those  
21   entities?

22                  A. I could, but it's probably too  
23   numerous to mention.

24                  Q. Okay. Well, does Caroline Financial  
25   Group, Inc. have any relationship to Grist Mill

1                   Daniel Carpenter 4/17/13

2                   Capital, LLC?

3                   A.     Yes, Caroline Financial Group is the  
4                   managing member and the tax matters partner of  
5                   Grist Mill Capital.

6                   Q.     Does Caroline Financial Group have  
7                   any -- and when I refer to Caroline Financial  
8                   Group, I'm talking about Caroline Financial  
9                   Group, Inc. I'll just shorten it.

10                  Is that agreeable?

11                  A.     That's fine.

12                  Q.     Does Caroline Financial Group have any  
13                  relationship to Grist Mill Holdings?

14                  A.     Yes, it's the tax matters partner and  
15                  managing member.

16                  Q.     And does Caroline Financial Group have  
17                  the same relationship to Grist Mill Partners,  
18                  LLC?

19                  A.     Yes.

20                  Q.     Are there multiple Grist Mill Capital,  
21                  LLCs?

22                  A.     There's only two that I know.

23                  Q.     And does Caroline Financial Group act  
24                  as the managing member and tax member for both of  
25                  Grist Mill Capital LLCs?

1                   Daniel Carpenter 4/17/13

2 documents.

3                   MR. SIANO: Just a minute.

4                   (Off-the-record discussion.)

5 BY MS. COLBATH:

6                   Q. And when you say you've signed over

7 200 documents like this, your reference is to

8 Moonstone 2.

9                   Are you talking about over 200

10 documents like this at TD Banknorth?

11                  A. No, no, at various banks, at various  
12 banks.

13                  Q. Do I understand you to be saying that  
14 you've opened up over 200 bank accounts over the  
15 last few years?

16                  A. Easily.

17                  Q. And other than opening bank accounts  
18 at TD Banknorth, what other banks have you opened  
19 bank accounts at?

20                  A. Well, what time period are you looking  
21 at, from --

22                  Q. The time period that you referenced  
23 when you said you had opened up over 200 bank  
24 accounts.

25                  A. Okay. Well, you know, there are at

1                    Daniel Carpenter 4/17/13

2        BY MS. COLBATH:

3                    Q.     Where do you currently maintain bank  
4     accounts for the businesses that you are involved  
5     in?

6                    A.     I personally don't have any bank  
7     accounts right now.

8                    Q.     Where do the businesses that you're  
9     involved in maintain accounts currently?

10                  A.    I would say most of the business that  
11    I am actively involved with -- and none of the  
12    businesses that I'm involved with are sham  
13    companies, so I would say that most of them are  
14    at Peoples.

15                  Q.    Have you ever been involved in setting  
16    up a bank account outside the United States?

17                  A.    In the past ten years?   What time  
18    frame?

19                  Q.    The past 20 years.

20                  A.    The past 20 years.   Not in the past 20  
21    years.

22                  Q.    Have you asked anyone else on your  
23    behalf to set up an account outside the United  
24    States in the past 20 years?

25                  A.    No.

1                   Daniel Carpenter 4/17/13

2                 Q.    Has any business with which you've  
3    been affiliated in any capacity maintained a bank  
4    account outside the United States?

5                 A.    Not that I know of.

6                 Q.    Does your wife maintain any bank  
7    accounts outside of the United States?

8                 A.    No.

9                 Q.    Does Moonstone currently have any  
10   liabilities?

11                A.    It's got a mortgage payable to Hanover  
12   Trust for \$1.1 million.

13                Q.    Do you have any relationship with  
14   Hanover Trust Company?

15                A.    Yes.

16                Q.    What's your relationship with Hanover  
17   Trust Company?

18                A.    I'm the chief investment officer and,  
19   you know, I handle various investments for  
20   Hanover Trust.

21                Q.    When was Hanover Trust Company formed?

22                A.    I'm going to say -- it was either 2004  
23   or 2005.

24                Q.    Who are the current owners of Hanover  
25   Trust Company?

1                   Daniel Carpenter 4/17/13  
2       nothing whatsoever to do with me, I was  
3       frightened that they would try to go after the  
4       Moonstone property under the same idea that, you  
5       know, because Molly Carpenter owned the property,  
6       Dan Carpenter still controls it. So that was the  
7       reason for setting up the promissory note and the  
8       mortgage, to make sure it would be secure.

9                   Q.     What is the full name of the Phoenix  
10      Capital entity you've referred to?

11                  A.     It's Phoenix Capital Management, LLC.

12                  Q.     Now, getting back to the cash that  
13      Hanover Trust Company had, what cash did Hanover  
14      Trust Company have in 2009?

15                  A.     Before Phoenix Capital?

16                  Q.     Before the Phoenix Capital transfer.

17                  A.     They just had cash value and annuities  
18      and life insurance policies.

19                  Q.     And what is your relationship, if any,  
20      to Phoenix Capital Management?

21                  A.     I'm either the head trustee, chief  
22      financial officer or chief investment officer, so  
23      I'm the only person that signs for and directs  
24      the investments of Hanover Trust.

25                  Q.     Okay. My question related to Phoenix

1                   Daniel Carpenter 4/17/13

2   Capital Management, and you ended with Hanover  
3   Trust Company?

4                   A. I thought you asked me about Hanover  
5   Trust.

6                   Q. No. What is your relationship with  
7   Phoenix Capital Management?

8                   A. I'm the only investment officer.  
9   Phoenix Capital Management is the investment arm  
10   of Carpenter Financial Group, so I'm the chairman  
11   and secretary of Carpenter Financial Group, and  
12   Phoenix Capital Management was established to be  
13   the lending arm of Carpenter Financial Group.

14                  Q. Does Phoenix Capital Management have  
15   any employees?

16                  A. Just me. There's no payroll. It's  
17   just me. I'm the only signature.

18                  Q. And what corporate form is the entity  
19   known as Phoenix Capital Management?

20                  A. It's a Delaware LLC.

21                  Q. Whose its managing member?

22                  A. I believe that it's Caroline Financial  
23   Group, and it's owned 99 percent by Carpenter  
24   Financial and 1 percent by Caroline Financial  
25   Group.

1                    Daniel Carpenter 4/17/13

2    I correct that it's your position that the money  
3    for the purchase of the Rhode Island property did  
4    not originate with Grist Mill Capital?

5                    A. Yes, it did not originate with Grist  
6    Mill Capital.

7                    The money came from Phoenix Capital to  
8    Grist Mill Holdings and then from Grist Mill  
9    Holdings, it went to Hanover, and then from  
10   Hanover over to Moonstone.

11                  Q. What is the business of Grist Mill  
12   Capital, LLC?

13                  A. Grist Mill Capital is just in the  
14   business of investing in life insurance policies.

15                  Q. What's the business of Grist Mill  
16   Holdings, LLC?

17                  A. Grist Mill Holdings is my alter ego  
18   for collecting commissions.

19                  Q. And what is the business, to the  
20   extent you haven't already told me, of Hanover  
21   Trust Company?

22                  A. Just to handle various assets. That's  
23   it.

24                  Q. Have you ever accessed the cash value  
25   of any of the insurance policies held by Hanover

1                   Daniel Carpenter 4/17/13

2                   Capital Management and Grist Mill Holdings.

3                   MR. SIANO: I'll take that under  
4                   advisement.

5                   BY MS. COLBATH:

6                   Q. Now, the transaction between Grist  
7                   Mill Holdings and Hanover Trust Company was in  
8                   the amount of \$1.2 million.

9                   Correct?

10                  A. Yes.

11                  Q. Okay. Now, was that transaction a  
12                  loan?

13                  A. I don't believe so. I believe it was  
14                  just an investment.

15                  Q. Is there any writing reflecting that  
16                  investment?

17                  A. I don't believe so.

18                  Q. Who on behalf of Grist Mill Holdings  
19                  made the decision to invest in Hanover Trust  
20                  Company?

21                  A. It would have been me.

22                  Q. Were there any negotiations between  
23                  anyone on behalf of Hannover Trust Company and  
24                  Grist Mill Holdings concerning the investment?

25                  A. It would have been a very small

1                   Daniel Carpenter 4/17/13

2 meeting. As I control Grist Mill Holdings and I  
3 control Hanover Trust, it would have been me  
4 talking to myself.

5 BY MS. COLBATH:

6                   Q. Are there any loan agreements between  
7 the Charter Oak Trust and Grist Mill Capital?

8                   MR. SIANO: Don't answer that  
9 question. Beyond the scope of the  
10 deposition.

11                  MS. COLBATH: I mean, I really have to  
12 differ with you, Mr. Siano, at this point.

13                  You have our papers. We have  
14 documented money going from the Charter Oak  
15 Trust to Grist Mill Capital and a number of  
16 other entities, and we're entitled to know  
17 whether that money was a loan, was an  
18 investment, was authorized, was negotiated.  
19 So it's at the heart of the deposition.

20                  MR. SIANO: No, this deposition is  
21 about Moonstone. This deposition is about  
22 Moonstone.

23                  MS. COLBATH: This deposition, by  
24 court order, is about --

25                  MR. SIANO: South Kingstown

1                   Daniel Carpenter 4/17/13

2                   A. I don't remember. I don't know if  
3 anybody represented -- Nova Group, Inc. was the  
4 shell corp. that acted as the sponsor of the  
5 Charter Oak Trust.

6                   Q. And to the best you can recall, in  
7 connection with the transaction set forth in  
8 Moonstone 4, you're not aware of anyone  
9 representing Nova Group, Inc.'s interest?

10                  A. I have no knowledge of who was  
11 representing Nova Group, Inc., and I know that  
12 Halloran & Sage was definitely representing Grist  
13 Mill Capital, and I don't know if there would  
14 have been a conflict, so I'm going to guess that  
15 Halloran & Sage would not have represented Nova  
16 Group, Inc., because there's an inherent conflict  
17 between Grist Mill Capital being the creditor and  
18 Nova Group representing the Charter Oak Trust as  
19 the debtor.

20                  Q. Right.

21                  A. So I don't know who would have  
22 represented Nova Group at all.

23                  Q. And if I asked the question a little  
24 differently, would you answer me the same?

25                  Was anyone representing Charter Oak

1                   Daniel Carpenter 4/17/13

2                 Q.    You're aware, sir, that Lincoln Life  
3                 paid the Charter Oak Trust approximately \$30.7  
4                 million in May 2009?

5                 A.    Correct.

6                 Q.    And you testified that Grist Mill  
7                 Capital received approximately 4.2 million of  
8                 those?

9                 A.    In relation to those Sash Spencer  
10               proceeds, correct.

11               Q.    So if you subtract the 4.2 from the  
12               30.7, you're left with \$26.5 million in the  
13               Charter Oak Trust. Correct?

14               A.    Correct.

15               Q.    Okay. Do you have any idea where that  
16               \$26.5 million went?

17               A.    Yeah, I've got a very good idea.

18               Q.    Where?

19               A.    In other words, when TD Bank announced  
20               that it was closing out the account, we basically  
21               had somewhere around \$40 million, maybe 45  
22               million owed to Grist Mill Capital, and I believe  
23               there was like \$11 million left in the Charter  
24               Oak Trust account, and we made a demand to have  
25               that money paid to Grist Mill Capital.

1                   Daniel Carpenter 4/17/13

2                   So any money that was in the Charter

3                   Oak Trust account was effectively seized by Grist

4                   Mill Capital.

5                   Q.     And does Grist Mill Capital still have  
6                   this \$26.5 million?

7                   A.     No, Ridgewood foreclosed on us twice  
8                   and threatened to sue me personally, so Ridgewood  
9                   Capital took all of the policies that they had  
10                  something to do with, and they took policies that  
11                  Grist Mill Capital owned, and they took whatever  
12                  cash they could.

13                  So there was absolutely no assets left  
14                  from the Charter Oak Trust or Grist Mill Capital  
15                  as of September of 2010.

16                  Q.     The \$26.5 million --

17                  MR. SIANO: Give me a minute.

18                  (The witness confers with his  
19                  attorney.)

20                  THE WITNESS: Could you repeat the  
21                  question? Maybe I didn't understand the  
22                  question. So just repeat the question.

23                  MR. SIANO: The question he answered.

24                  (The pertinent portion is read back by  
25                  the reporter.)

1                   Daniel Carpenter 4/17/13

2                 A. If I didn't ask them to do it, I don't  
3                 think they would do it for me. So I'd say, no,  
4                 I've never had anybody backdate a document for  
5                 me. I've never asked anyone to do it, and I  
6                 don't believe anybody has ever backdated a  
7                 document for me.

8                 Q. At the time this document was signed  
9                 in October 2010 -- I think it's fair to say that  
10               it was signed in October 2010. Correct?

11               A. Once again, I believe that -- I  
12               believe that the reason we did this document at  
13               the same time was that there was another  
14               transaction involving one of our affiliates named  
15               Richard Belding, and we basically said, hey,  
16               we're doing this loan between Carpenter Financial  
17               Group and Richard Belding, let's document the  
18               loan between Hanover and Moonstone.

19               So I realized that the Moonstone  
20               transaction was done in 2009, but the genesis of  
21               this document was we were doing another mortgage  
22               for Rich Belding and that's why I believe we  
23               created this document, and Bob Cox created both  
24               mortgages.

25               Q. This gentleman, Mr. Belding, he has

1                    Daniel Carpenter 4/17/13

2        nothing whatsoever to do with Moonstone Partners,  
3        LLC.    Correct?

4                    A.    Correct.

5                    Q.    Why didn't Phoenix Capital Management  
6        loan the money directly to Moonstone?

7                    A.    Phoenix Capital Management put the  
8        money into Grist Mill Holdings, but certainly --  
9        certainly, we could have lent money directly  
10      to -- Phoenix Capital Management could have  
11      directly lent money to Moonstone, but we didn't  
12      do it that way, so...

13                  Q.    Why not?

14                  A.    I don't know. You know, in other  
15      words, I could have borrowed money out of my  
16      insurance policies and financed the purchase of  
17      Moonstone, but we didn't do it that way either.

18                  Q.    That would require you to go to the  
19      insurance carriers to tap into your cash value.  
20      Correct?

21                  A.    Correct, but I've done that before to  
22      buy other businesses. In other words, why we  
23      decided to do one transaction rather than  
24      another, but the reason for using Hanover Trust  
25      is to make sure that someone wouldn't be coming

1                   Daniel Carpenter 4/17/13

2                   after the Moonstone property.

3                   So Phoenix Capital Management had  
4                   cash. Hanover didn't have any cash. So when you  
5                   ask the question of why didn't you just have  
6                   Phoenix Capital lend money directly to Moonstone,  
7                   I would say it was my fear that someone would  
8                   say, you know, it's all Dan Carpenter, and the  
9                   reason for doing this transaction in the first  
10                  place was to make sure that the Boston exchangers  
11                  wouldn't go after the Moonstone property because  
12                  under the theory that Dan Carpenter owns and  
13                  controls everything.

14                  So there's no question that Phoenix  
15                  Capital Management is owned and controlled by  
16                  Carpenter Financial Group, and if they're going  
17                  after independent entities that have absolutely  
18                  nothing to do with Daniel Carpenter, then clearly  
19                  they would go after a transaction where it's  
20                  Carpenter Financial Group that owns 99 percent of  
21                  Phoenix.

22                  So the whole reason behind the  
23                  security agreement and the whole reason behind  
24                  Hanover Trust is to protect Moonstone from the  
25                  Boston exchangers.

# **EXHIBIT 48**



# **EXHIBIT 49**

22:51:1539.002:07.15.2010:17:21

INSURED ROBERT LEVINTHAL  
 POLICY NUMBER 020095030  
 ISSUE AGE, SEX 58, MALE  
 CLASS NON-TOBACCO  
 SPECIFIED FACE AMOUNT \$7,000,000.00  
 MINIMUM SPECIFIED FACE AMOUNT \$100,000  
 DEATH BENEFIT COMPLIANCE TEST GUIDELINE PREMIUM  
 DEATH BENEFIT OPTION OPTION A :SPECIFIED FACE AMOUNT  
 INITIAL PREMIUM \$1,041,623.52 DUE ON DECEMBER 05, 2003  
 (INCLUDES THE FIRST PLANNED PERIODIC PREMIUM)  
 PLANNED PERIODIC PREMIUM \$25,000.00  
 BILLING PERIOD ANNUALLY  
 ISSUE DATE JULY 22, 2004  
 POLICY DATE DECEMBER 05, 2003  
 (UNLESS CHANGED BY AGREEMENT)  
 CURRENCY UNITED STATES DOLLARS  
 OWNER GRIST MILL TRUST DTD 10/1/03  
 BENEFICIARY AS STATED IN THE APPLICATION  
 UNLESS SUBSEQUENTLY CHANGED  
 GUARANTEED INTEREST RATE 3.00%  
 (ANNUAL)  
 INTEREST ENHANCEMENT FACTOR 0.25  
 INTEREST ENHANCEMENT PERIOD POLICY YEARS 10 AND AFTER  
 MAXIMUM INTEREST ENHANCEMENT 0.50%  
 (ANNUAL)  
 POLICY LOAN INTEREST RATE 5.00% DURING POLICY YEARS 1 - 42  
 (ANNUAL)

\*PAYMENT OF PREMIUMS DOES NOT NECESSARILY GUARANTEE COVERAGE TO AGE 100 AND COVERAGE MAY TERMINATE IF THE CASH VALUE BECOMES INSUFFICIENT TO CONTINUE COVERAGE TO THAT DATE.

ULN-2002

This policy is a counterpart of the original policy issued with the same number which is deemed to have been lost or destroyed. The original policy and this counterpart thereof shall constitute but one and the same instrument.  
 (Dated) 7/14/10  
 S8a-516

1. POLICY SPECIFICATIONS  
(POLICY NUMBER 020095030 )

EXPENSE CHARGE APPLIED TO PREMIUM	6.00%
MONTHLY EXPENSE CHARGE	\$10.00 IN ALL POLICY YEARS PLUS \$0.46 PER \$1000 OF SPECIFIED FACE AMOUNT DURING POLICY YEARS 1 - 10
MAXIMUM PARTIAL WITHDRAWAL	20% OF CASH SURRENDER VALUE DURING POLICY YEARS 1-10 100% OF CASH SURRENDER VALUE IN POLICY YEARS 11 AND AFTER
PARTIAL WITHDRAWL FEE	\$25.00

ULN-2002

2:29:11Z39.003:07.15.2018:17:21

**1. POLICY SPECIFICATIONS**  
**(020095030 )**

**SUPPLEMENTAL BENEFIT RIDER(S)**

**ACCELERATED BENEFIT RIDER**

**ULN-2002**

22:31:13 30. 06.07. 15. 2010:17:21

1. POLICY SPECIFICATIONS  
(POLICY NUMBER 020095030 )

SURRENDER CHARGE ON THE SPECIFIED FACE AMOUNT AT THE POLICY DATE

<u>POLICY YEAR</u>	<u>SURRENDER CHARGE</u>
1	\$154,420.00
2	\$143,360.00
3	\$132,370.00
4	\$121,310.00
5	\$110,320.00
6	\$99,260.00
7	\$88,270.00
8	\$77,210.00
9	\$66,150.00
10	\$55,160.00
11	\$44,100.00
12	\$33,110.00
13	\$22,050.00
14	\$11,060.00

ULN-2002

22:21:13 5/8/05 1:51:20 10:17:21

**2A. TABLE OF ACCOUNT VALUE PERCENTAGES**  
**POLICY NUMBER 020095030**

POLICY YEAR	PERCENTAGE	POLICY YEAR	PERCENTAGE
1	138.00	2	134.00
3	120.00	4	128.00
5	126.00	6	124.00
7	122.00	8	120.00
9	116.00	10	118.00
11	117.00	12	116.00
13	115.00	14	113.00
15	111.00	16	109.00
17	107.00	18	105.00
19	105.00	20	105.00
21	105.00	22	105.00
23	105.00	24	105.00
25	105.00	26	105.00
27	105.00	28	105.00
29	105.00	30	105.00
31	105.00	32	105.00
33	105.00	34	104.00
35	103.00	36	102.00
37	101.00	38	100.00
39	100.00	40	100.00
41	100.00	42	100.00

229112529..006:07.15..2010:17:21

ULN-2002

22:9:21:14:3:59, 007 :07, 15, 2018:17:21

**2B. TABLE OF GUARANTEED MAXIMUM COST OF INSURANCE RATES  
PER \$1,000 OF NET AMOUNT AT RISK  
POLICY NUMBER 020095030**

POLICY YEAR	MONTHLY POLICY RATES	MONTHLY POLICY YEAR	MONTHLY POLICY RATES	MONTHLY YEAR	MONTHLY RATES
1	0.86833	2	0.95583	3	1.05333
4	1.16167	5	1.28500	6	1.42583
7	1.58500	8	1.76083	9	1.95000
10	2.15500	11	2.37500	12	2.61500
13	2.88583	14	3.24250	15	3.54667
16	3.95333	17	4.10000	18	4.90000
19	5.42167	20	5.97000	21	6.53917
22	7.14333	23	7.80583	24	8.54333
25	9.37667	26	10.31583	27	11.34250
28	12.43333	29	13.56667	30	14.73250
31	15.90750	32	17.10750	33	18.34917
34	19.65333	35	21.06250	36	22.63833
37	24.63750	38	27.49667	39	32.04583
40	40.01667	41	54.83167	42	83.33333

BASIS OF VALUES: COMMISSIONERS' 1980 STANDARD ORDINARY SMOKER AND NONSMOKER,  
MALE AND FEMALE MORTALITY TABLES.

NOTE: THE MORTALITY BASIS OF A TOBACCO USER IS THAT OF A SMOKER. THE  
MORTALITY BASIS OF A TOBACCO NON-USER IS THAT OF A NONSMOKER.

ULN-2002

SEP-03-2004 09:21  
PRLLE FINANCIAL  
PRILLE FINANCIALREQUEST FOR ALTERATION  
OF APPLICATIONPolicy Number 020095090 on the life of Robert Levinthal

The Sun Life Assurance Company of Canada, a member of the Sun Life Financial group of companies, is hereby requested to accept the following answers in lieu of the answers to the corresponding questions on the application by the undersigned for the numbered policy.

Question 11 - Trustee(s) Name: Daniel E. Carpenter

Question 12 - Beneficiary: Grist Mill Trust dated 10-1-03, Daniel E. Carpenter, Trustee

Question 13A - Base plan applied for: Sun Universal Protector Plus

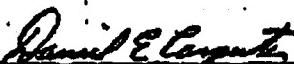
Base Face Amount: \$7,000,000

Question 15 - Death Benefit Option: A (Level)

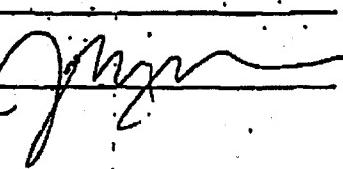
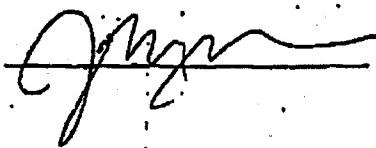
Question 16 - Planned Periodic Premium: \$25,000

Question 20 - Payment Mode: Annual

It is hereby agreed by the undersigned that the above answers shall form part of the said application and that a copy of this Alteration of Application, the signed original of which is to be recorded at the Head Office of the Company, shall be attached to and shall apply to any policy issued thereon.

Signed at Houston, TxSignature 

Daniel E. Carpenter - Trustee

On August 31 2004 Signature   
DateIn presence of Jenny Valdés-Sergio Signature   
Witness

New Business, July 22, 2004

SLPC 1954 One Sun Life Executive Park, Wellesley Hills, Massachusetts 02451 Tel: (781) 237-6050

TOTAL P.04  
TOTAL P.19

MAR-25-2004 16:46  
MAR-17-2004 10:48

SUN LIFE FINANCIAL

21.96.97.9.6.8.5  
P.82

22:51:13 3/30/04 00:00:00 15.2010:17:12

Sun Life Assurance Company of Canada  
Part I of Application for Life Insurance

Sun Life Financial™

## Proposed Insured(s) Information

"Life Two" responses are for ownership policies only.

## Proposed Insured: Life One

12. Mr.  Ms.  Ms. C.  Dr.   
Name Leyland, Daniel

## Proposed Insured: Life Two

13. Mr.  Ms.  Ms. C.  Dr.   
Name C. S.

## Name Address

14. Eastern Square  
Tx 77027  
Years at Address 7

## Name Address

15. 5  
TX 77027

## Mailing Address of other than above

## Mailing Address (if other than above)

16. Home Phone (713) 960-1338  
Business Phone (713) 520-744417. Home Phone 7  
Business Phone 218. Birth Date 6 7 45  
Birth Place Houston Tx19. Birth Date 8  
Birth Place 720. Social Security No. 361-70-2377  
Driver's License No. 1073173321. Social Security No.  
Driver's License No.State of issue TX

State of issue

22. Sex  M  F Sex  M  F 23. Occupation Neurosurgeon

Occupation

Name of Employer Houston Neurosurgery  
Address of Employer 1320 13th St. #1130Name of Employer  
Address of Employer24. This policy will be used primarily for: (please check only one)  
 Income Replacement  Supplemental Retirement Income  Capital Plan  Charitable Gift  
 Stock Option  Bonus Plan  Key Person  Business Continuity  Deferred Compensation Plan  
 Other \_\_\_\_\_

Special Instructions: \_\_\_\_\_

## Cancellations and Amendments (for Sun Life top only)

## Beneficiary Information

25. Owner or Trust Name GREAT MILL TRUST Date of Birth 10-1-03  
Relationship to Insured TRUST  
Trustee Name Daniel F. CarpenterAddress 100 Great Mill Rd. Simsbury, CT 06070 Is this a U.S. residence?  Yes  No  
Social Security or Tax Identification No. 06-162-4773 US Citizen?  Yes  No  
LNU T4250 SPC 2364

MAR-25-2024 16:45

MAR-17-2024 16:48

PRELLE FINANCIAL

P.83

713 659 5583 F.02/21

213968779

If owner is a trust, date of trust 10-1-03 State that was established in Connecticut

Contingent Owner (if any) \_\_\_\_\_ Date of Birth \_\_\_\_\_

Relationship to Insured TRUSTAddress \_\_\_\_\_ Permanent U.S. Resident?  Yes  NoSocial Security or Tax Identification No. \_\_\_\_\_ U.S. Citizen?  Yes  No**Beneficiary Information**12. Primary TRUST WILL NAME

Primary \_\_\_\_\_ Secondary \_\_\_\_\_

Contingent \_\_\_\_\_ Relationship to Insured \_\_\_\_\_

Contingent \_\_\_\_\_ Relationship to Insured \_\_\_\_\_

NOTE: Unless otherwise specified: (a) The surviving beneficiaries will share equally if no beneficiary is living when the proceeds become due. The proceeds will be paid to the insured's named estate.

**Plan Information**

13a. Sum plan applied for (select only one):

Whole Life Insurance

- Ann Premiums Life-Advantage  
 Ann Modified Life  
 Specified Gold  
 Other \_\_\_\_\_

Sum Plan Amount \$ \_\_\_\_\_

13b. CLD Plan Amount \$ \_\_\_\_\_

13c. ILD Plan Amount \$ \_\_\_\_\_

13d. Level Plus Premium \$ \_\_\_\_\_

Single Plus Premium \$ \_\_\_\_\_

14. Supplemental Benefits

ADD Plan Amount \$ \_\_\_\_\_

Waiver Available Yes  No 

Universal Life Insurance

- CLL  
 CLL-PRO  
 Specified Gold UL  
 Other \_\_\_\_\_

Sum Plan Amount \$ \_\_\_\_\_

ADD Plan Amount \$ \_\_\_\_\_

Term Insurance

- Term AAT  
 Term 10  
 Other \_\_\_\_\_

Sum Plan Amount \$ \_\_\_\_\_

ADD Plan Amount \$ \_\_\_\_\_

Waiver Available Yes  No 

Other \_\_\_\_\_

**Policy Information**

For universal life policies, please complete questions 15 and 16.

15. Death Benefit Option  A Death  B Premium  C Increase of Premium  D    increased  
 E Premium plus    increased  F Other \_\_\_\_\_

16. Planned Periodic Premium \$ \_\_\_\_\_

For whole life policies, please complete questions 17 and 18.

17. Dividend Option  FVA  Cash  Reduction  Deposit  TDD  Other \_\_\_\_\_18. Is Approved Premium Loan requested? Yes  No 

19. Due Date of First Premium \_\_\_\_\_

20. Payment Mode  Annual  Semi-annual  MC (Draft date \_\_\_\_\_) Up-to-date Policy coverage Yes  No

21. Amount Paid With Application \$ \_\_\_\_\_ Refer to Temporary Life Agreement No. \_\_\_\_\_

LNUO 14/200

229112339, 010::07-15, 2010-17:27

APR-05-2004 13:53

SALLE FINANCIAL

713 659 5981 P.04/86

22911339-011-07-25-2018-17-22

**Other Insurance/Replacement Information**22. Details of insurance in force and pending with Sun Life and other companies?  None

Proposed/Insured Name	Company	Business/Personal	Issue year/Pending	Total Amount

23. Has any application for insurance on your life been declined or offered on a basis other than applied for? If "yes," provide details.  Yes  No  Yes  No24. Will any existing life insurance or annuity with this or any other company be replaced, changed or used as a source of premium payment for the insurance applied for? If "yes," provide details and necessary forms.  Yes  No  Yes  No25. If a replacement is involved, is it intended as an IRC Section 1035 exchange?  Yes  No  Yes  No**Lifestyle Information**26. (a) Have you used tobacco (cigarettes, cigars, chewing tobacco, etc.) or nicotine-containing products (nicorette gum, nicotine patch, etc.) within the past twelve months? If "yes," provide details.  Yes  No  Yes  No(b) Do you previously use tobacco or nicotine products but have now stopped? If "yes," give date you stopped. CIGARETTES - 10 yrs  Yes  No  Yes  No27. Do you plan to travel or reside outside of the U.S. in the next two years? If "yes," provide details.  Yes  No  Yes  No

28. Have you within the past two years:

(a) Flown as a pilot or co-pilot in any type of aircraft?  Yes  No  Yes  No  
(If "yes," an Aviation Questionnaire is required on both lives.)(b) Participated in scuba diving, parachuting, hang gliding, motorized racing or any other hazardous sport? If "yes," appropriate questionnaire is required.  Yes  No  Yes  No

29. Have you in the last three years while operating a motor vehicle, boat or aircraft:

(a) Been charged with any moving violations?  Yes  No  Yes  No(b) Had your operator's license restricted, suspended or revoked?  Yes  No  Yes  No(c) Been charged with operating while under the influence of alcohol and/or drugs? If "yes," provide details.  Yes  No  Yes  NoSpurred, 2002**Statement of Health**

Complete for non-medical application on all persons to be covered as shown in 7A and 7B.

## 30. Family History

Life One	Age(s) if Living	Age(s) at Death	State of Health or Cause of Death	Life Two	Age(s) if Living	Age(s) at Death	State of Health or Cause of Death
Father	60		COPD, CANCER	Father			
Mother	87		COPD - CANCER	Mother			
Brother(s)	Alone		Ago 76	Brother(s)			
Sister(s)				Sister(s)			

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For "yes" responses to questions 31, 33 and 34, please provide details on the next page.

35. Have any of your parents, brothers or sisters had diabetes, heart disease or high blood pressure?  Yes  No  Yes  No

32. Life One: Height 5'10 Weight 195 Life Two: Height \_\_\_\_\_ Weight \_\_\_\_\_

33. Have you had a change of weight of more than 10 pounds within the past 12 months? If "yes," how much and for what reason? "  Yes  No  Yes  No

34. Are you being treated by diet, drugs or other means?  Yes  No  Yes  No

35. Name(s) and address(es) of personal physician(s): \_\_\_\_\_

**Use One**

Life Tree

— NONE

**Date last seen and reason for visit:**

For all "yes" responses to questions 36-39, please include diagnoses, dates, durations, names and addresses of attending physicians and medical facilities on the next page.

- |   | Site One  | Site Two  |
|---|---|---|
| 36. Have you ever had, been told you have or been treated by a physician for:   |   |   |
| (a) High blood pressure, chest discomfort, stroke, circulatory or heart disorder?   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (b) Diabetes, sugar in the urine, thyroid, or other glandular (endocrine) disorder?   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (c) Kidney, bladder, urinary, reproductive organ or prostate disorder?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (d) Protein (albumin), blood or pus in the urine, sexually transmitted disease or venereal disease?   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (e) Cancer, tumor, polyp, or disorder of the skin or breast?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (f) Asthma, pneumonia, emphysema, or any other respiratory or lung disorder?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (g) Seizure, convulsion, fainting, loss of consciousness, tremor, paralysis, or other disorder of the nervous system?   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (h) Anxiety, depression, stress or any psychological or emotional condition or disorder?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (i) Colitis, hepatitis, ulcers, or other disorders of the stomach, liver or digestive system?   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (j) Arthritis, gout, back or joint pain, bone fracture, or muscle disorder?   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (k) Anemia, bleeding, or blood disorder?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (l) Acquired Immune Deficiency Syndrome (AIDS) or AIDS-Related Complex (ARC)?   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| m) A positive blood test for antibodies to the AIDS (HIV) virus?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 37. Have you:   |   |   |
| (a) Regularly used amphetamines, marijuana, cocaine, hallucinogens, heroin or other drugs except as prescribed by a physician?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (b) Been treated or counseled for alcoholism or drug abuse?   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (c) Been advised to reduce your consumption of alcohol?   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 38. Do you have any health symptoms for which a physician has not been consulted or treatment received? For example, persistent fever, unexplained weight loss, loss of appetite, pain or swelling? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 39. Other than previously stated, have you within the past five years:  |   |   |
| (a) Had a checkup, consultation, illness, surgery or been hospitalized?   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (b) Had an electrocardiogram, stress or exercise test, x-ray, blood test or other diagnostic test?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (c) Been advised to have, or scheduled, any diagnostic test, hospitalization or surgery which was not completed?  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

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No



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SPRELL FINANCIAL

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713 659 5981 P.06/09



**Sun Life  
of Canada\***  
Shining over America since 1895

## Part II of Application for Life Insurance

1. Name of proposed insured Robert Levinthal MD
2. Are you being treated by diet, drugs or other means?  Yes  No
3. Have you ever had, been told you have or been treated by a physician for:
- (a) High blood pressure, chest discomfort, stroke, circulatory or heart disorder?
  - (b) Diabetes, sugar in the urine, thyroid, or other glandular (endocrine) disorder?
  - (c) Kidney, bladder, urinary, reproductive organ or prostate disorder?
  - (d) Protein (albumin), blood or pus in the urine, sexually transmitted disease or venereal disease?
  - (e) Cancer, tumor, polyp, or disorder of the skin or breast?
  - (f) Asthma, pneumonia, emphysema, or any other respiratory or lung disorder?
  - (g) Seizure, convulsion, fainting, loss of consciousness, tremor, paralysis, or other disorder of the nervous system?
  - (h) Anxiety, depression, stress or any psychological or emotional condition or disorder?
  - (i) Colitis, hepatitis, ulcers, or other disorders of the stomach, liver or digestive system?
  - (j) Arthritis, gout, back or joint pain, bone fracture, or muscle disorder?
  - (k) Anemia, bleeding, or blood disorder?
  - (l) Acquired Immune Deficiency Syndrome (AIDS) or AIDS-Related Complex (ARC)?
  - (m) A positive blood test for antibodies to the AIDS (HIV) virus?
4. Have you:
- (a) Regularly used amphetamines, marijuana, cocaine, hallucinogens, heroin or other drugs except as prescribed by a physician?
  - (b) Been treated or counseled for alcoholism or drug abuse?
  - (c) Been advised to reduce your consumption of alcohol?
5. Do you have any health symptoms for which a physician has not been consulted or treatment received? For example, persistent fever, unexplained weight loss, loss of appetite, pain or swelling?
6. Other than previously stated, have you within the past five years:
- (a) Consulted a physician or any other practitioner, had a checkup, illness, surgery or been hospitalized?
  - (b) Had an electrocardiogram, stress or exercise test, x-ray, blood test or other diagnostic test?
  - (c) Been advised to have, or scheduled, any diagnostic test, hospitalization or surgery which was not completed?
7. Have any of your parents, brothers or sisters had diabetes, heart disease or high blood pressure?
8. Family History

	Age(s) if Living	Age(s) at Death	State of Health or Cause of Death
Father		60	Colon Cancer - Pulmonary Embolus
Mother	87		Chronic Obstructive Pulmonary Disease; Leukemia
Brother(s)	None		
Sister(s)			

I declare that I have made no statement to the medical examiner, agent, or any other person connected with the Company which in any way qualifies or modifies the above answers which I have read and confirm to be full and true to the best of my knowledge and belief.

Signed at Houston, Texas this 26<sup>th</sup> day of November 2003

Signature Robert Levinthal (Person proposed for insurance)

In presence of Facets (Agent/Asst.) (Medical or paramedical examiner will please sign here)

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# **EXHIBIT 50**

1 D59FUNIH Hearing  
1 UNITED STATES DISTRICT COURT  
1 SOUTHERN DISTRICT OF NEW YORK  
2 -----x  
2 UNIVERSITAS EDUCATION, LLC,  
3  
3 Plaintiff,  
4  
4 v. 11 CV 1590 (LTS)  
5  
5 NOVA GROUP, INC. et al,  
6  
6 Defendants.  
7 -----x  
7  
8 New York, N.Y.  
8 May 9, 2013  
8 9:30 a.m.  
9  
9 Before:  
10 HON. LAURA TAYLOR SWAIN,  
11 District Judge  
12 APPEARANCES  
13 LOEB & LOEB LLP  
13 Attorneys for Plaintiff  
14 PAULA K. COLBATH, ESQ.  
14  
15 BRYAN I. REYHANI, ESQ.  
15 Attorney for Plaintiff  
16 ANTHONY J. SIANO, ESQ.  
17 Attorney for Defendant D. Carpenter and Moonstone Partners  
17 LLP  
18 HALLORAN & SAGE LLP  
19 Attorneys for Defendant M. Carpenter  
19 DAN E. LABELLE, ESQ.  
20 BRIEF CARMEN & KLEIMAN, LLP  
21 Attorneys for Defendant Nova Group  
21 IRA KLEIMAN, ESQ.  
22 CAROLE R. BERNSTEIN, ESQ.  
23 Attorney for Defendant Grist Mill Capital  
23  
24 ABRAMS, GORELICK, FRIEDMAN & JACOBSON, LLP  
24 Attorneys for Defendant USAA  
25 ALEXANDRA E. RIGNEY, ESQ.  
25  
SOUTHERN DISTRICT REPORTERS, P.C.  
(212) 805-0300

D59FUNIH

Carpenter - direct

1 A. Honestly, till today, I don't even remember ever seeing  
2 this document.

3 Q. Okay, well, turn to the next page that has Bates number  
4 1372 on the bottom. Do you recognize that document?

5 A. No. Just looks like a bank statement for Hanover Trust  
6 Company.

7 Q. Right, and it again indicates that you're the trustee of  
8 Hanover Trust Company, correct?

9 A. It says that in the upper left-hand corner.

10 Q. Looking at this document, does that refresh your  
11 recollection that you told TD Bank that you were a trustee of  
12 this entity?

13 A. Actually, no.

14 Q. What is your relationship with Grist Mill Trust?

15 A. I don't have a relationship with Grist Mill Trust.

16 Q. You don't control Grist Mill Trust?

17 A. No, not at all. I'm not a signatory, never been a trustee  
18 of it and I'm not a signatory of Grist Mill Trust.

19 Q. Do you have any decision-making authority for the Grist  
20 Mill Trust?

21 A. None whatsoever.

22 Q. Have you had decision-making authority for the Grist Mill  
23 Trust at any point in time?

24 A. Never.

25 Q. Is the Grist Mill Trust an employee welfare benefit plan  
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(212) 805-0300

D59FUNIH                   Carpenter - direct

1 like the Charter Oak Trust?

2 A. It's a totally different welfare benefit plan. Grist Mill  
3 Trust has other benefits and it's totally a different structure  
4 than the Charter Oak Trust.

5 Q. It's a different structure, but it is an employee welfare  
6 benefit plan, correct?

7 A. Correct.

8 Q. Do you have any personal knowledge with regard to the  
9 business affairs of the Grist Mill Trust?

10 A. What do you mean by the business affairs?

11 Q. Well, do you consult with anyone on behalf of the Grist  
12 Mill Trust?

13 A. Normally if they've got a tax question, if one of the  
14 participating employers is being audited I'm usually consulted  
15 by the people at the Grist Mill Trust to see if I could help  
16 that person through their audit.

17 Q. Have you ever received any payments from the Grist Mill  
18 Trust?

19 A. Never.

20 Q. Are you a signatory on any of the bank accounts for the  
21 Grist Mill Trust?

22 A. No, ma'am.

23 Q. Have you or any of the entities that you control made loans  
24 to the Grist Mill Trust?

25 A. Made loans to the Grist Mill Trust?

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D59FUNIH

Carpenter - direct

1 Q. Mm-hmm.

2 A. No. We've paid back loans but I don't believe we've made  
3 any loans.4 Q. Have you or any company that you control received a loan  
5 from the Grist Mill Trust?6 A. I believe several companies that I'm affiliated with have  
7 received loans from the Grist Mill Trust.8 Q. Which companies that you're affiliated with have received  
9 loans from the Grist Mill Trust?10 A. I know that Phoenix Capital Management definitely received  
11 a loan and I believe that Avon Capital received loans from the  
12 Grist Mill Trust.13 Q. When did Phoenix Capital Management receive a loan from the  
14 Grist Mill Trust?15 A. I believe they received several loans going back to  
16 2005-2006.

17 Q. Are those loans evidenced by written promissory notes?

18 A. I believe they are, yes.

19 Q. When was the last loan made by the Grist Mill Trust to  
20 Phoenix Capital Management?

21 A. I don't recall.

22 Q. Who on behalf of the Grist Mill Trust authorized the loan  
23 to Phoenix Capital Management?24 A. I believe Wayne Bursey and Nova Benefits Plans LLC is the  
25 trustee, so Mr. Bursey would have to sign off on any loans that

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D59FUNIH

Carpenter - direct

1       were made.

2       Q. Did you have any discussion with Mr. Bursey concerning the  
3       loan from Grist Mill Trust to Phoenix Capital Management?4       A. I believe I talked to two other people in his office about  
5       the loan.

6       Q. And who are those two people?

7       A. Cathy Keogh, I believe Cathy Keogh and Donna Dawson.

8       Q. Did you submit a loan application to the Grist Mill Trust?

9       A. No.

10      Q. How did it -- just tell me, how did it come to be that  
11       Phoenix Capital Management got a loan from Grist Mill Trust  
12       that's an employee welfare benefit plan?13      MR. SIANO: Judge, I don't mean to intrude, but I  
14       believe there was testimony that there was more than one loan.  
15       I'm having a little trouble with the use of the word "the," but  
16       that's my objection to the form of the question.

17      Q. The last loan that was made. Well, let me withdraw that.

18      What was the principal amount of the last loan that was made?

19      A. The last loan that I remember was for -- there's two loans.  
20       There was one for two and a half -- there's three loans that I  
21       remember. So there was one for about 2-1/2 million, there was  
22       one for 900-something thousand and there was another one that  
23       was done to Phoenix Capital Management for 2.7 million.

24      Q. And Mr. Bursey approved all three of these loans?

25      A. He would have to sign off. Money could not move without

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D59FUNIH Carpenter - direct  
1 Mr. Bursey's signature.  
2 Q. What are the repayment terms for the \$2.5 million loan  
3 between the Grist Mill Trust and Phoenix Capital Management?  
4 A. On the 2.5 million, we paid back over 2.8 million, so I  
5 believe it was about 6 percent interest.  
6 Q. Was that loan repaid prior to May 2009?  
7 A. I don't recall when that was paid.  
8 Q. If you look at, under Exhibit 1, page 467?  
9 A. Yes, ma'am, I have it.  
10 Q. Is that your signature there on the middle of the page?  
11 A. Yes, ma'am.  
12 Q. And can you tell me what this document that we're looking  
13 at is?  
14 A. It appears to be another banking resolution form for  
15 Phoenix Capital Management LLC.  
16 Q. And was this document a document that you signed and  
17 furnished to TD Bank in connection with opening up a bank  
18 account at TD Bank for Phoenix Capital Management?  
19 A. Yes, ma'am.  
20 Q. And when did you open up that bank account on behalf of  
21 Phoenix Capital Management at TD Bank?  
22 A. I don't exactly recall. The dates seem to be May 20 and  
23 May 21.  
24 Q. Does that comport with your general recollection that you  
25 opened up this account in the May 20, 2009 time frame?

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D59FUNIH

Carpenter - direct

1 A. Yes.

2 Q. And is that your signature that appears on the second page  
3 of the document bearing number 468?

4 A. Yes, ma'am.

5 Q. And prior to opening up the bank account at TD Bank for  
6 Phoenix Capital Management, did Phoenix Capital Management  
7 maintain bank accounts at any other institutions?

8 A. Yes, ma'am.

9 Q. Where?

10 A. I know that there was a large account at Bank of America  
11 and I think that there were accounts before at Fleet and  
12 perhaps Simsbury Bank and Trust.13 Q. If you flip in your notebook to Exhibit 15, and tell me  
14 what is document 15?15 A. These are accounts, a young man in our office, Eric  
16 Schneider, kept all these bank accounts, these are Bank of  
17 America bank accounts and usually every day or every other day  
18 he would put together a listing of the various bank accounts  
19 that we had at Bank of America and he would just routinely do  
20 this.

21 Q. Did he do it under your direction?

22 A. I actually think he did it under Amanda Rossi's direction.

23 Q. And Ms. Rossi is your assistant, she works for you?

24 A. Yes, she does work for me.

25 Q. Exhibit 15 doesn't list any bank account at Bank of America  
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D59FUNIH Carpenter - direct  
1 for Phoenix Capital Management, does it?  
2 A. I don't see it listed on this, I don't see it listed on  
3 this sheet.  
4 Q. Okay, and then down in the lower right the document says  
5 "last modified 5/15/2009," correct?  
6 A. That's what it says, yes.  
7 Q. And flip to Exhibit 16 and it's a similar sheet, correct?  
8 A. Yes.  
9 Q. And Exhibit 16 bears the date last modified July 7, 2009,  
10 right?  
11 A. That's what it says, yes.  
12 Q. And you'll agree with me that there's no Phoenix Capital  
13 Management listed as an account at Bank of America?  
14 A. Phoenix Capital is not on this list, but that doesn't mean  
15 there wasn't a Bank of America account.  
16 Q. Did you ever receive bank statements from Bank of America  
17 for a Phoenix Capital Management account?  
18 A. I don't recall.  
19 Q. Do you still bank with Bank of America?  
20 A. No. Not at all.  
21 Q. Why not?  
22 A. We had a falling out pretty much around that time frame.  
23 One of our companies that had done \$20 million in transactions  
24 with them, they restricted the wiring and the reason, we're  
25 wiring large amounts all the time and they restricted our

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D59FUNIH Carpenter - direct

wiring ability and that was unacceptable to us.

Q. Was it a falling out or -- at your deposition you said you were kicked out. Is that accurate?

A. Well, you know, it's kind of like a mutual divorce. There was no question that we felt that somebody -- we were definitely kicked out of TD Bank, but as far as Bank of America goes, I think we went back and forth with some of the top executives there that we didn't think we were being treated fairly and I believed that somebody had sent a nasty letter to the president of Bank of America and I think what they insinuated is that you should get rid of all of the accounts at Bank of America that Dan Carpenter is associated with. But nobody ever confirmed that at Bank of America.

Q. Now, in your answer I think you may have misspoke at the beginning and you said that you were kicked out of TD Bank. We could have it read back if you want. Were you also kicked out of TD Bank?

A. Yes, ma'am. In June.

THE COURT: I beg your pardon, what year?

THE WITNESS: I'm sorry, June of 2010, your Honor.

THE COURT: Thank you.

Q. Does the Grist Mill Trust operate out of 100 Grist Mill Road in Simsbury, Connecticut?

A. I believe it does.

Q. And you created the Grist Mill Trust, is that correct?

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1 D59FUNIH

Carpenter - direct

2 A. No, that's not true.

3 Q. Why did Phoenix Capital -- I want to go back a couple of  
4 questions on the Grist Mill Trust. I apologize. Why did  
Phoenix Capital Management need a loan?

5 MR. SIANO: Objection as to form. Which loan?

6 THE COURT: Do you want to rephrase?

7 Q. Why did Phoenix Capital Management need any of the three  
8 loans that you identified?9 A. Phoenix Capital Management is the lending arm or financial  
10 arm of Carpenter Financial Group and Phoenix Capital. I had  
11 made substantial loans to Benistar Admin Services Inc. and  
12 because of my personal problems legally several people had made  
13 the suggestion that we should not have Carpenter Financial  
14 Group appearing on the Benistar Admin Services financial  
15 statements because Benistar Admin Services had to file  
16 financial statements and even though I had nothing to do with  
17 BASI our accountants and our attorneys felt it would be a  
18 better idea to restructure the loan, create a new entity which  
19 would be Phoenix Capital. So the first deal that Phoenix  
20 Capital did was lending money to Benistar Admin Services which  
21 was used to pay back Carpenter Financial Group so Carpenter  
22 Financial group would no longer appear on BASI's audited  
23 financial statements.24 Q. Why didn't Grist Mill Trust just make the loan directly to  
25 BASI?SOUTHERN DISTRICT REPORTERS, P.C.  
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D59FUNIH

Carpenter - direct

1 A. Nobody ever talked to me about Grist Mill Trust. I was the  
2 only one who approached Grist Mill Trust because in the old  
3 days we might be able to get three or four percent interest  
4 from JPMorgan, but all during the 2000's the interest rates  
5 were all under 1 percent and literally dropped to ten basis  
6 points. So it was my idea to come up with the idea with the  
7 excess cash that the Grist Mill Trust had to lend it to groups  
8 like Grist Mill Capital and to Phoenix Capital so we could  
9 invest in insurance policies and pay back 6 or 8 percent to the  
10 Grist Mill Trust. So it wasn't a question of need, it was a  
11 question of opportunity.

12 Q. Well, sir, if you had nothing to do with the Grist Mill  
13 Trust, how would you know that they had excess cash that could  
14 be put to work?

15 A. Because I knew for a fact that hundreds of millions of  
16 dollars were coming in to the Grist Mill Trust every year.

17 Q. Now, all of the entities that we talked about; Carpenter  
18 Financial Group, Caroline Financial Group, Grist Mill Holdings,  
19 Grist Mill Capital Delaware, Grist Mill Capital Connecticut,  
20 Phoenix Capital Management, all of them operate out of 100  
21 Grist Mill Road in Simsbury, Connecticut, correct?

22 A. Yes, ma'am.

23 Q. Now, you're aware that a judgment was entered in this  
24 action against an entity known as Nova Group Inc., correct?

25 A. Yes, ma'am.

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D59FUNIH Carpenter - direct

1 Q. Do you have any relationship with Nova Group Inc.?      2  
2 A. Which Nova Group Inc. are you referring to?      3  
3 Q. Okay. I wasn't aware that there were more than one, but  
4 how many Nova Group Inc.'s are there?      5  
5 A. There's two. There's a Nova Group Inc. that was formed in  
6 Delaware in August of 2002, and then there's a Nova Group Inc.  
7 that was formed in Connecticut in January of 2007 and that's a  
8 Connecticut corporation.      9  
9 Q. Were you involved in forming both of those Nova Group  
10 entities?      11  
11 A. I wasn't involved in either one of them.      12  
12 Q. Did you authorize the forming of either one of those  
13 entities?      14  
14 A. No, I did not.      15  
15 Q. Have you at any point in time been an officer or director  
16 of Nova Group Inc.?      17  
17 A. When Paul Doucet who established Nova Group Inc. Delaware  
18 left, he left in 2004, I took over the doing of tax returns and  
19 the filing of various paperwork, but that Nova Group Inc  
20 Delaware had nothing whatsoever to do with the Nova Group Inc  
21 Connecticut that was formed to be the sponsor of the Charter  
22 Oak Trust.      23  
23 Q. So do I understand your testimony, you -- strike that.  
24                          Do you have any understanding as to how much is  
25 currently due under the judgment against Nova Group Inc?

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# **EXHIBIT 51**

Exhibit A

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

The Penn Mutual Life Insurance Company,

Plaintiff,

v.

Wayne H. Bursey, as trustee of the Charter Oak Trust; the Charter Oak Trust; J. Edward Waesche; and John Does 1-10,

Defendants.

Case No. 10-cv-01520-RNC

*June 9,*  
*May* , 2011

**STIPULATION OF DISMISSAL WITH PREJUDICE**

Pursuant to Federal Rule of Civil Procedure 41(a), Plaintiff, The Penn Mutual Life Insurance Company, and Defendants, Wayne H. Bursey, as President of Nova Group, Inc., trustee of the Charter Oak Trust, the Charter Oak Trust, and J. Edward Waesche (the parties that have appeared in this action), hereby stipulate to the dismissal with prejudice of the above-styled action. Penn Mutual further voluntarily dismisses its action against Defendants John Does 1-10 pursuant to Rule 41(a). Pursuant to this Stipulation, each party is to bear its own costs and attorney's fees.

\* \* \*

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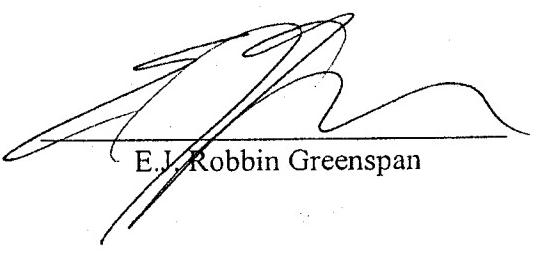
*Attorneys for Wayne H. Bursey, as  
President of Nova Group, Inc., trustee of  
the Charter Oak Trust, the Charter Oak  
Trust, and J. Edward Waesche*

**CERTIFICATION**

This is to certify that a copy of the foregoing was filed electronically this 9<sup>th</sup> day of June, 2011 and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic filing. Parties may access this filing through the Court's CM/ECF system.

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E.J. Robbin Greenspan

# **EXHIBIT 52**

**People's United  
Bank****Commercial Deposit**Date 6/13/11Name Grist Mill Capital, Inc.

Please be sure that all items are properly endorsed

Checks and other items are received for deposit subject to the provisions of the Uniform Commercial Code or any applicable agreement. Deposit may not be available for immediate withdrawal.

Total Items &gt;

1

Cash	Coin	Checks	=	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	TOTAL
			=	600,000.00															600,000	

Deposit to Account Number

6500023292

Amount of Deposit

Net Deposit \$

513606000

600,000.00

Pocket:19 Pattern:3003 Account:6500023292 Serial:0 Amount:\$600,000.00 Sequence:2700591685 TR:51360600 BOFD TR:-  
TranCode:0 CUID:1615 Date:06/13/2011 PostAcct:6500023292

6500023292 CK Deposit \$600,000.00  
A1360U6

TR:85 175-17506 06/13/11 12:04 PM

06/13/2011 2700591685 1615 P.B. 600,000.00

COT\_PEOPLES0000092



THE PENN MUTUAL LIFE INSURANCE COMPANY  
INDEPENDENCE SQUARE, PHILADELPHIA, PA 19172

DATE 60-162  
JUN 07, 2011 433 CHECK NUMBER  
1038855

08E11 ATH 46DS H411000123

EXACTLY *Six hundred thousand and 00/100 Dollars*

PAY GRIST MILL CAPITAL, LLC  
TO: 100 GRIST MILL ROAD  
SIMSBURY, CT 06070

VOU  
6 MONTHS AFTER  
DATE OF ISSUE

\*\*\*\*\*\$600,000.00

PNC BANK, NA  
JEANNETTE, PA

*Patricia M. Chiarango*  
ASSISTANT TREASURER

1038855 1043301627 1004690744

Packet:5 Pattern:3003 Account:1004690744 Serial:1038855 Amount:\$600,000.00 Sequence:2700591690 TR:43301627 BOFD TR:-  
TranCode:0 CUID:1615 Date:06/13/2011 PostAcct:0

ENDORSE CHECK HERE

DO NOT WRITE SIGN OR STAMP ON THIS LINE  
DEPOSITOR'S NAME AND SIGNATURE

X  
100 f. 10/13/2011

COT\_PEOPLES0000093

# **EXHIBIT 53**

**BRIEF CARMEN & KLEIMAN, LLP**  
ATTORNEYS AT LAW  
805 THIRD AVENUE  
NEW YORK, NEW YORK 10022

MATTHEW J. BRIEF  
RICHARD E. CARMEN  
IRA KLEIMAN\*

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\* ALSO ADMITTED IN THE DISTRICT OF COLUMBIA

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(212) 832-7221

October 4, 2013

The Honorable Laura Taylor Swain  
United States District Judge  
United States District Court  
500 Pearl Street  
New York, NY 10007

**Re: Universitas Education, LLC v. Nova Group, Inc.  
(S.D.N.Y. 11-CV-1590-LTS-HBP)**

Dear Judge Swain:

We write as counsel for Nova Group, Inc. ("Nova"), in regard to that part of the Court's Order, dated September 30, 2013, (Docket Number 295) which ordered Nova to deposit the judgment amount of \$30,181,880.30 with the Clerk of the Court by October 4, 2013.

Mindful of the financial magnitude of the Order of the Court, we consulted with counsel for Grist Mill Capital, Avon Capital, Grist Mill Trust and for Daniel Carpenter, as well as Daniel Carpenter himself, in an effort to obtain compliance. However, we have been advised by Mr. Carpenter that neither the Charter Oak Trust, nor Charter Oak Trust 2009, nor Nova possess the funds or assets to comply with the Court's Order. We have been further advised by Mr. Carpenter that recoupment of monies from the entities to which the proceeds of the Sash Spencer Insurance policies were transferred in 2009 (well before the entry of judgment in this matter), cannot be had, because: a) those entities themselves no longer have the funds transferred in 2009; or b) the monies transferred were paid in satisfaction of pre-existing debts, and Mr. Carpenter is not in control of at least one of those entities.

Specifically, the Court's Order to Nova to deposit the judgment amount is directed to an entity that, since at least 2010, has been dormant. A successor entity of the same name incorporated in Connecticut, has also been dormant since 2010. Mr. Carpenter advises that there are presently no active bank accounts in the name of either of the Nova Group entities.

The Court's order refers generally to "transferee entities". As has been disclosed in both documents and in the testimony of the agent for Grist Mill Capital, LLC, ("GMC") GMC received cash and assets from Nova and the Charter Oak Trust as valid debt repayments. In turn, GMC used the cash and assets it received to satisfy its valid liabilities and obligations to actual

**BRIEF CARMEN & KLEIMAN, LLP**  
ATTORNEYS AT LAW

October 4, 2013  
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creditors. Such cash and assets are no longer under the control of the judgment debtor or of the transferee entities. None of the transferee entities is a judgment debtor.

The proceeds of the Sash Spencer insurance policies were transferred from Nova to Grist Mill Capital, LLC, in May and in October, 2009. That money is no longer in the Grist Mill Capital LLC Account. As of September 30, 2013, the amount of money in the Grist Mill Capital Bank Account was \$10.00 (copy of bank statement dated September 30, 2013 is annexed hereto as Exhibit A).

From the Grist Mill Capital account, the monies were transferred (in 2009) at various times to a number of entities including Grist Mill Holdings, Avon Capital, Carpenter Financial Group, Phoenix Capital, and the Grist Mill Trust.

Except for the Grist Mill Trust (which will be discussed separately), none of the foregoing entities possess any meaningful sums in their bank accounts. The short time provided by the Court for compliance with the Order and the page limits imposed by the Court's Rules preclude us from attaching copies of bank statements to reflect these facts at this time, Mr. Carpenter is prepared to provide the Court and counsel for Universitas with disclosure of financial information necessary to demonstrate that none of these entities possesses the monies or assets to comply with the Court's order.<sup>1</sup>

In regard to the insurance policies previously owned by Nova, as previously described to the Court, all insurance policies which were at one time owned by the original Charter Oak Trust or Charter Oak Trust 2009, (no policies were owned by Nova Group, Inc.) were assigned pursuant to Collateral Assignment Agreements to Grist Mill Capital, LLC and/or Ridgewood Financial II, LLC. Any policies which were covered by such an agreement with Ridgewood were resolved when Ridgewood accepted the transfer of ownership of certain of the policies to Ridgewood, in satisfaction of the debt Charter Oak, Nova Group, Inc. or Grist Mill Capital, LLC owed to them. All other policies had been or were assigned to Grist Mill Capital, LLC, which was owed in excess of \$60,000,000.00 as a result of policy financing arrangements extant at the time the Sash Spencer proceeds were paid in 2009.

At the present time, the remaining policies still owned by the Charter Oak Trust are the subject of litigation and cannot be transferred. To Mr. Carpenter's knowledge, all other policies have either been terminated or lapsed. In one instance, our client understands that a policy was transferred after the acquiring entity actually made a payment to Universitas.

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<sup>1</sup> No current counsel ever has been paid by Nova or the Charter Oak Trust, and no counsel has been paid by any of what at this time we understand to be transferee entities since the end of 2012.

BRIEF CARMEN & KLEIMAN, LLP  
ATTORNEYS AT LAW

October 4, 2013

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One of the transferee entities is the Grist Mill Trust. Grist Mill Trust is a multiple employer trust providing death benefits for covered employees of employers who adopt into the plan. It currently serves 343 employers and 632 participants. Funds are paid to the Trust by employers and the Trust in turn pays various life insurance companies premiums due for the various policies insuring the lives of the covered employees. When a participant dies, the life insurance company pays the death benefit to the Trust, which in turn secures the appropriate documentation and pays the benefit to the beneficiary(ies). In this regard, from time to time, there may be significant dollars in the Trust's bank accounts, but such funds are (a) held in trust for the beneficiary(ies); (b) premiums to be paid to maintain the life insurance policies; and (c) cash due to forfeitures and buyouts as well as fees and costs payable to the administrator and sponsor for their work. As to the latter, as of this date, the Trust has less than \$50,000 belonging to it.

On September 18, 2013, and again on September 24, 2013, the Trust provided documentation of the foregoing financial details to counsel for Universitas in response to their request for same. Beyond this, as to counsel's inquiry as to the reasons for payments made to the Trust in 2009, the Trust provided counsel for Universitas with documents which show the propriety of various documented loans having been repaid: We are advised by Mr. Carpenter and counsel for the Grist Mill Trust, that Mr. Carpenter is not a principal of the Grist Mill Trust, was never its trustee, and has no control over its cash assets.

Thus, Nova and the Charter Oak Trust find that they are not capable of complying with the order of the Court at this time. Thus, we ask that the Court allow us additional time to provide the Court and counsel for Universitas with such documentation and/or testimony, as well as to continue to attempt to locate whatever assets, if any, that may be placed with the Court pursuant to its' Order. Counsel for Universitas, with whom I have consulted by e-mail by telephone, has declined to consent to this request.

Thank you for your attention to this matter.

Respectfully submitted,



Ira Kleiman

cc: All counsel (via e-mail)

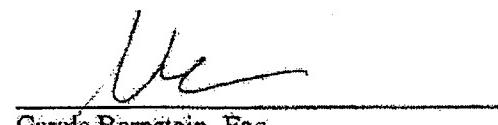
BRIEF CARMEN & KLEIMAN, LLP  
ATTORNEYS AT LAW

October 4, 2013  
Page 4

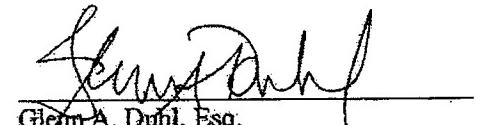
Reviewed and  
Agreed Upon:



Anthony J. Siano, Esq.  
Attorney for Daniel Carpenter



Carole Bernstein, Esq.  
Attorney for Grist Mill Capital LLC  
and Avon Capital LLC



Glenn A. Duhl, Esq.  
Siegel, O'Connor, O'Donnell & Beck, P.C.  
Attorney for Grist Mill Trust